

SENATE BILL 22

Introduced by Gage, et al.

6/23	Introduced
6/23	Referred to Taxation
6/23	Fiscal Note Requested
6/24	Hearing
6/29	Taken From Committee
7/01	2nd Reading Passed as Amended
6/01	3rd Reading Passed

Transmitted to House

7/05	Referred to Natural Resources
7/05	Motion Failed To Rerefer to Taxation
7/06	Hearing
7/07	Tabled in Committee
7/11	Fiscal Note Printed

1 *Frank* BILL NO. *SB*
 2 INTRODUCED BY *Jim Rehberg*
 3 *Gilbert* BY REQUEST OF THE GOVERNOR *Dionotto*
 4 *Bob*
 5 A BILL FOR AN ACT ENTITLED: *AN ACT REDUCING TO A SINGLE*
 6 *MACEE* *Stewart* *Harding* *Hayne*
 7 RATE THE PROPERTY TAX RATE ON PERSONAL PROPERTY; COMBINING
 8 PERSONAL PROPERTY CLASSES; REVISING COUNTY CLASSIFICATIONS
 9 AND DEBT AND LEVY LIMITATIONS OF LOCAL GOVERNMENTS,
 10 INCLUDING SCHOOL DISTRICTS; IMPOSING A TAX ON THE RECEIPTS
 11 FROM THE SALE OF COAL AND ALLOCATING THE MONEY TO STATE
 12 EQUALIZATION AID; REDUCING THE SEVERANCE TAX ON COAL TO 1
 13 PERCENT; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211,
 14 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203,
 15 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524,
 16 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106,
 17 7-31-107, 7-34-2131, 15-1-101, 15-6-137, 15-6-138,
 18 15-10-402, 15-24-1102, 15-24-1103, 15-35-103, 19-11-503,
 19 19-11-504, 20-9-343, 20-9-406, 20-9-407, AND 20-9-502, MCA;
 20 REPEALING SECTIONS 15-6-139, 15-6-140, AND 15-6-146, MCA;
 21 AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

STATEMENT OF INTENT

22
 23 A statement of intent is required for this bill because
 24 [section 10] requires the department of revenue to adopt
 25 rules to implement a sales tax on receipts from the sale of

1 coal. It is the intent of the legislature that the
 2 department adopt rules that address, at a minimum, reporting
 3 forms to be used by persons required to pay the sales tax on
 4 coal and other rules as may be necessary to implement and
 5 administer the sales tax on coal.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 NEW SECTION. **Section 1. Definitions.** As used in
 8 [sections 1 through 10], the following definitions apply:

- 9 (1) "Buying", "selling", "sell", or "sale" means the
 10 transfer of coal for consideration.
 11 (2) "Contract sales price" means contract sales price
 12 as defined in 15-35-102.
 13 (3) "Department" means the department of revenue.
 14 (4) "Engaged in the business" means carrying on or
 15 causing to be carried on the sale of coal for the purpose of
 16 direct or indirect benefit.
 17 (5) "Person" means":
 18 (a) an individual, estate, trust, receiver,
 19 cooperative association, club, corporation, company, firm,
 20 partnership, joint venture, syndicate, or other entity; or
 21 (b) the United States or any agency or instrumentality
 22 of the United States or the state of Montana or any
 23 political subdivision of the state.
 24 (6) (a) "Receipts" means the total amount of money or
 25

1 the value of other consideration received from selling coal
2 in Montana. The term includes all receipts from the sale of
3 coal handled on consignment but excludes cash discounts
4 allowed and taken and any type of time-price differential.

5 (b) In an exchange in which the money or other
6 consideration received does not represent the value of the
7 coal exchanged, receipts means the value of the coal or
8 other property or consideration exchanged.

9 (c) (i) Except as provided in [section 6], when the
10 sale of coal is made under any type of charge or conditional
11 or time-sales contract, the seller shall treat all receipts
12 under the contract, excluding any type of time-price
13 differential, as receipts at the time of sale.

14 (ii) If the seller transfers his interest in a contract
15 to a third person, the seller shall pay the sales tax upon
16 the full sale or contract amount, excluding any type of
17 time-price differential.

18 (d) For the purpose of the business of buying,
19 selling, or promoting, as an agent or broker on a commission
20 or fee basis, the purchase or sale of any coal in Montana,
21 receipts includes the total commissions or fees derived from
22 the business.

23 (7) "Sales tax" means the applicable tax imposed by
24 [section 2].

25 NEW SECTION. Section 2. Imposition and rate of sales

1 tax on coal. (1) Except as provided in subsection (3), a
2 sales tax is imposed on all receipts from the sale of coal
3 in this state.

4 (2) The rate of the sales tax on coal is as follows:

5 (a) After June 30, 1989, and before July 1, 1990:

6 Heating quality	7 Surface	8 Underground
9 (Btu per pound	10 Mining	11 Mining
12 of coal):		
13 Under 7,000	14 16% of contract	15 2% of contract
	16 sales price	17 sales price
18 7,000 and over	19 24% of contract	20 3% of contract
	21 sales price	22 sales price

23 (b) After June 30, 1990, and before July 1, 1991:

24 Heating quality	25 Surface	26 Underground
27 (Btu per pound	28 Mining	29 Mining
30 of coal):		
31 Under 7,000	32 12% of contract	33 2% of contract
	34 sales price	35 sales price
36 7,000 and over	37 19% of contract	38 3% of contract
	39 sales price	40 sales price

41 (c) After June 30, 1991:

1	Heating quality	Surface	Underground
2	(Btu per pound	Mining	Mining
3	of coal):		
4	Under 7,000	9% of contract	2% of contract
5		sales price	sales price
6	7,000 and over	14% of contract	3% of contract
7		sales price	sales price

8 (3) If the receipts are generated from a sale of coal
 9 that is exempt from the coal severance tax under
 10 15-35-103(3), the receipts are also exempt from the sales
 11 tax imposed by this section.

12 NEW SECTION. Section 3. Presumption of taxability --
 13 value. In order to prevent evasion of the sales tax and to
 14 aid in its administration, it is presumed that all receipts
 15 from the sale of coal are subject to the sales tax.

16 NEW SECTION. Section 4. Separate statement of tax.
 17 (1) If the sales tax is stated separately on the books of
 18 the seller and the total amount of tax stated separately on
 19 transactions within the reporting period is in excess of the
 20 amount of sales tax payable on those transactions, the
 21 excess amount of tax otherwise payable and stated on the
 22 transactions within the reporting period must be included in
 23 receipts.

24 (2) If the sales tax is not stated separately on
 25 transactions, the receipts for sales tax purposes include

1 the total amounts received, with no deduction for the sales
 2 tax.

3 NEW SECTION. Section 5. Agents for collection of
 4 sales tax -- severability. (1) A person who sells or
 5 attempts to sell coal within this state shall collect the
 6 sales tax from the buyer and pay the tax collected to the
 7 department.

8 (2) To ensure the orderly and efficient collection of
 9 the tax imposed by [sections 1 through 10], if any
 10 application of this section is held invalid, the section's
 11 application to other situations or persons is not affected.

12 NEW SECTION. Section 6. Application for permission to
 13 report on accrual basis. (1) A person may apply to the
 14 department for permission to report and pay the sales tax on
 15 an accrual basis.

16 (2) The application must be made on a form prescribed
 17 by the department that contains information the department
 18 may require.

19 (3) A person may not report or pay the sales tax on an
 20 accrual basis unless he has received written permission from
 21 the department.

22 NEW SECTION. Section 7. Returns -- payment --
 23 authority of department -- disposition of revenue. (1) Not
 24 more than 30 days following the end of each calendar
 25 quarter, each person engaged in the business of selling coal

1 shall file a return on a form provided by the department and
 2 pay the tax imposed by [sections 1 through 10] for the
 3 preceding quarter. Each return must contain a confession of
 4 judgment for the amount of the tax shown due, to the extent
 5 not timely paid. The return must be signed by the person
 6 filing the return or by his agent duly authorized in
 7 writing.

8 (2) (a) A person liable for the taxes imposed by
 9 [sections 1 through 10] shall keep records, render
 10 statements, make returns, and comply with the provisions of
 11 [sections 1 through 10] and rules prescribed by the
 12 department.

13 (b) For the purpose of determining compliance with the
 14 provisions of this section, the department is authorized to
 15 examine or cause to be examined any books, papers, records,
 16 or memoranda relevant to making a determination of the
 17 amount of tax due, whether the books, papers, records, or
 18 memoranda are the property of or in the possession of the
 19 person filing the return or another person. The department
 20 may also:

21 (i) require the attendance of a person having
 22 knowledge or information relevant to a return;

23 (ii) compel the production of books, papers, records,
 24 or memoranda by the person required to attend;

25 (iii) take testimony on matters material to the

1 determination; and

2 (iv) administer oaths or affirmations.

3 (3) Pursuant to rules established by the department,
 4 returns may be computer generated.

5 (4) The statute of limitations for the sales tax on
 6 coal is the same as the statute of limitations for the coal
 7 severance tax as provided in 15-35-114.

8 (5) All sales tax revenue collected by the department
 9 must be credited as follows:

10 (a) 12% of sales tax collections are allocated to the
 11 highway reconstruction trust fund account in the state
 12 special revenue fund;

13 (b) 7.6% to the state special revenue fund to the
 14 credit of the education trust fund account;

15 (c) 6.65% to the credit of the local impact account;

16 (d) 3.8% to the state special revenue fund for state
 17 equalization aid to public schools of the state;

18 (e) 0.38% to the state special revenue fund to the
 19 credit of the county land planning account;

20 (f) 0.475% to the credit of the renewable resource
 21 development bond fund;

22 (g) 1.9% to a nonexpendable trust fund for the purpose
 23 of parks acquisition or management, protection of works of
 24 art in the state capitol, and other cultural and aesthetic
 25 projects. Income from this trust fund must be appropriated

1 as follows:

2 (i) 1/3 for protection of works of art in the state
3 capitol and other cultural and aesthetic projects; and

4 (ii) 2/3 for the acquisition, development, operation,
5 and maintenance of any sites and areas described in
6 23-1-102;

7 (h) 0.38% to the state special revenue fund to the
8 credit of the state library commission for the purposes of
9 providing basic library services for the residents of all
10 counties through library federations and for payment of the
11 costs of participating in regional and national networking;

12 (i) 0.19% to the state special revenue fund for
13 conservation districts;

14 (j) 0.475% to the debt service fund type to the credit
15 of the water development debt service fund;

16 (k) 0.76% to the state special revenue fund for the
17 Montana Growth Through Agriculture Act;

18 (l) all other revenues from the sales tax collected
19 under the provisions of [sections 1 through 10] to the
20 credit of the general fund of the state.

21 **NEW SECTION. Section 8. Warrant for distraint.** If the
22 tax imposed by [sections 1 through 10] or any portion of the
23 tax is not paid when due, the department may issue a warrant
24 for distraint as provided in Title 15, chapter 1, part 7.

25 **NEW SECTION. Section 9. Penalties.** (1) The department

1 shall assess a penalty for delinquent sales tax. The penalty
2 is the same as the penalty for delinquent severance tax on
3 coal, as provided in 15-35-105, including both penalty and
4 interest.

5 (2) A person who fails, neglects, or refuses to file a
6 statement required under [sections 1 through 10] commits a
7 misdemeanor. A person convicted under this subsection shall
8 be fined not more than \$10,000 or be imprisoned in the
9 county jail for a term not to exceed 6 months, or both.

10 **NEW SECTION. Section 10. Rulemaking authority.** The
11 department may adopt rules necessary for implementing and
12 administering the provisions of [sections 1 through 10].

13 **Section 11. Section 7-1-2111, MCA, is amended to read:**

14 ***7-1-2111. Classification of counties.** (1) For the
15 purpose of regulating the compensation and salaries of all
16 county officers, not otherwise provided for, and for fixing
17 the penalties of officers' bonds, the several counties of
18 this state shall be classified according to that percentage
19 of the true and full valuation of the property therein upon
20 which the tax levy is made, except for vehicles subject to
21 taxation under 61-3-504(2), as follows:

22 (a) first class--all counties having such a taxable
23 valuation of \$50 million or over;

24 (b) second class--all counties having such a taxable
25 valuation of more than \$30 million and less than \$50

1 million;

2 (c) third class--all counties having such a taxable
3 valuation of more than \$20 million and less than \$30
4 million;

5 (d) fourth class--all counties having such a taxable
6 valuation of more than \$15 million and less than \$20
7 million;

8 (e) fifth class--all counties having such a taxable
9 valuation of more than \$10 million and less than \$15
10 million;

11 (f) sixth class--all counties having such a taxable
12 valuation of more than \$5 million and less than \$10 million;

13 (g) seventh class--all counties having such a taxable
14 valuation of less than \$5 million.

15 (2) As used in this section, taxable valuation means
16 the taxable value of taxable property in the county as of
17 the time of determination plus:

18 (a) that portion of the taxable value of the county on
19 December 31, 1981, attributable to automobiles and trucks
20 having a rated capacity of three-quarters of a ton or less;

21 (b) that portion of the taxable value of the county on
22 December 31, 1989, attributable to automobiles and trucks
23 having a rated capacity of more than three-quarters of a ton
24 but less than or equal to 1 ton;

25 (c) the amount of interim production and new

1 production taxes levied, as provided in 15-23-607, divided
2 by the appropriate tax rates described in 15-23-607(2)(a) or
3 (2)(b) and multiplied by 60%; and

4 (d) the amount of value represented by new production
5 exempted from tax as provided in 15-23-612; and

6 (e) 8.3% of the total taxable value of the county on
7 December 31, 1990."

8 **Section 12.** Section 7-3-1321, MCA, is amended to read:

9 "7-3-1321. Authorization to incur indebtedness --
10 limitation. (1) The consolidated municipality may borrow
11 money or issue bonds for any municipal purpose to the extent
12 and in the manner provided by the constitution and laws of
13 Montana for the borrowing of money or issuing of bonds by
14 counties and cities and towns.

15 (2) The municipality may not become indebted in any
16 manner or for any purpose to an amount, including existing
17 indebtedness, in the aggregate exceeding ~~20%~~ 30.5% of the
18 taxable value of the taxable property therein, as
19 ascertained by the last assessment for state and county
20 taxes prior to incurring such indebtedness. All warrants,
21 bonds, or obligations in excess of such amount given by or
22 on behalf of the municipality shall be void."

23 **Section 13.** Section 7-6-2211, MCA, is amended to read:

24 "7-6-2211. Authorization to conduct county business on
25 a cash basis. (1) In case the total indebtedness of a

1 county, lawful when incurred, exceeds the limit of ~~23%~~ 25%
 2 established in 7-7-2101 by reason of great diminution of
 3 taxable value, the county may conduct its business affairs
 4 on a cash basis and pay the reasonable and necessary current
 5 expenses of the county out of the cash in the county
 6 treasury derived from its current revenue and under such
 7 restrictions and regulations as may be imposed by the board
 8 of county commissioners of the county by a resolution duly
 9 adopted and included in the minutes of the board.

10 (2) Nothing in this section restricts the right of the
 11 board to make the necessary tax levies for interest and
 12 sinking fund purposes, and nothing in this section affects
 13 the right of any creditor of the county to pursue any remedy
 14 now given him by law to obtain payment of his claim."

15 **Section 14.** Section 7-6-4121, MCA, is amended to read:

16 "7-6-4121. Authorization to conduct municipal business
 17 on a cash basis. (1) In case the total indebtedness of a
 18 city or town has reached ~~17%~~ 18.5% of the total taxable
 19 value of the property of the city or town subject to
 20 taxation, as ascertained by the last assessment for state
 21 and county taxes, the city or town may conduct its affairs
 22 and business on a cash basis as provided by subsection (2).

23 (2) (a) Whenever a city or town is conducting its
 24 business affairs on a cash basis, the reasonable and
 25 necessary current expenses of the city or town may be paid

1 out of the cash in the city or town treasury and derived
 2 from its current revenues, under such restrictions and
 3 regulations as the city or town council may by ordinance
 4 prescribe.

5 (b) In the event that payment is made in advance, the
 6 city or town may require a cash deposit as collateral
 7 security and indemnity, equal in amount to such payment, and
 8 may hold the same as a special deposit with the city
 9 treasurer or town clerk, in package form, as a pledge for
 10 the fulfillment and performance of the contract or
 11 obligation for which the advance is made.

12 (c) Before the payment of the current expenses
 13 mentioned above, the city or town council shall first set
 14 apart sufficient money to pay the interest upon its legal,
 15 valid, and outstanding bonded indebtedness and any sinking
 16 funds therein provided for and shall be authorized to pay
 17 all valid claims against funds raised by tax especially
 18 authorized by law for the purpose of paying such claims."

19 **Section 15.** Section 7-6-4254, MCA, is amended to read:

20 "7-6-4254. Limitation on amount of emergency budgets
 21 and appropriations. (1) The total of all emergency budgets
 22 and appropriations made therein in any one year and to be
 23 paid from any city fund may not exceed ~~38%~~ 40.5% of the
 24 total amount which could be produced for such city fund by a
 25 maximum levy authorized by law to be made for such fund, as

1 shown by the last completed assessment roll of the county.

2 (2) The term "taxable property", as used herein, means
3 the percentage of the value at which such property is
4 assessed and which percentage is used for the purposes of
5 computing taxes and does not mean the assessed value of such
6 property as the same appears on the assessment roll."

7 **Section 16.** Section 7-7-107, MCA, is amended to read:

8 "7-7-107. Limitation on amount of bonds for
9 city-county consolidated units. (1) Except as provided in
10 7-7-108, no city-county consolidated local government may
11 issue bonds for any purpose which, with all outstanding
12 indebtedness, may exceed 39% 42.5% of the taxable value of
13 the property therein subject to taxation as ascertained by
14 the last assessment for state and county taxes.

15 (2) The issuing of bonds for the purpose of funding or
16 refunding outstanding warrants or bonds is not the incurring
17 of a new or additional indebtedness but is merely the
18 changing of the evidence of outstanding indebtedness."

19 **Section 17.** Section 7-7-108, MCA, is amended to read:

20 "7-7-108. Authorization for additional indebtedness
21 for water or sewer systems. (1) For the purpose of
22 constructing a sewer system or procuring a water supply or
23 constructing or acquiring a water system for a city-county
24 consolidated government which shall own and control such
25 water supply and water system and devote the revenues

1 therefrom to the payment of the debt, a city-county
2 consolidated government may incur an additional indebtedness
3 by borrowing money or issuing bonds.

4 (2) The additional indebtedness which may be incurred
5 by borrowing money or issuing bonds for the construction of
6 a sewer system or for the procurement of a water supply or
7 for both such purposes may not in the aggregate exceed 10%
8 over and above the 39% 42.5% referred to in 7-7-107 of the
9 taxable value of the property therein subject to taxation as
10 ascertained by the last assessment for state and county
11 taxes."

12 **Section 18.** Section 7-7-2101, MCA, is amended to read:

13 "7-7-2101. Limitation on amount of county
14 indebtedness. (1) No county may become indebted in any
15 manner or for any purpose to an amount, including existing
16 indebtedness, in the aggregate exceeding 23% 25% of the
17 total of the taxable value of the property therein subject
18 to taxation, plus the amount of interim production and new
19 production taxes levied divided by the appropriate tax rates
20 described in 15-23-607(2)(a) or (2)(b) and multiplied by
21 60%, plus the amount of value represented by new production
22 exempted from tax as provided in 15-23-612, as ascertained
23 by the last assessment for state and county taxes previous
24 to the incurring of such indebtedness.

25 (2) No county may incur indebtedness or liability for

1 any single purpose to an amount exceeding \$500,000 without
 2 the approval of a majority of the electors thereof voting at
 3 an election to be provided by law, except as provided in
 4 7-21-3413 and 7-21-3414.

5 (3) Nothing in this section shall apply to the
 6 acquisition of conservation easements as set forth in Title
 7 76, chapter 6."

8 **Section 19.** Section 7-7-2203, MCA, is amended to read:

9 "7-7-2203. Limitation on amount of bonded
 10 indebtedness. (1) Except as provided in subsections (2)
 11 through (4), no county may issue general obligation bonds
 12 for any purpose which, with all outstanding bonds and
 13 warrants except county high school bonds and emergency
 14 bonds, will exceed ~~11.25%~~ 12.25% of the total of the taxable
 15 value of the property therein, plus the amount of interim
 16 production and new production taxes levied divided by the
 17 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
 18 and multiplied by 60%, plus the amount of value represented
 19 by new production exempted from tax as provided in
 20 15-23-612, to be ascertained by the last assessment for
 21 state and county taxes prior to the proposed issuance of
 22 bonds.

23 (2) In addition to the bonds allowed by subsection
 24 (1), a county may issue bonds which, with all outstanding
 25 bonds and warrants, will not exceed ~~27.75%~~ 30.25% of the

1 total of the taxable value of the property in the county
 2 subject to taxation, plus the amount of interim production
 3 and new production taxes levied divided by the appropriate
 4 tax rates described in 15-23-607(2)(a) or (2)(b) and
 5 multiplied by 60%, plus the amount of value represented by
 6 new production exempted from tax as provided in 15-23-612,
 7 when necessary to do so, for the purpose of acquiring land
 8 for a site for county high school buildings and for erecting
 9 or acquiring buildings thereon and furnishing and equipping
 10 the same for county high school purposes.

11 (3) In addition to the bonds allowed by subsections
 12 (1) and (2), a county may issue bonds for the construction
 13 or improvement of a jail which will not exceed ~~12.5%~~ 13.5%
 14 of the taxable value of the property in the county subject
 15 to taxation.

16 (4) The limitation in subsection (1) does not apply to
 17 refunding bonds issued for the purpose of paying or retiring
 18 county bonds lawfully issued prior to January 1, 1932, or to
 19 bonds issued for the repayment of tax protests lost by the
 20 county."

21 **Section 20.** Section 7-7-4201, MCA, is amended to read:

22 "7-7-4201. Limitation on amount of bonded
 23 indebtedness. (1) Except as otherwise provided, no city or
 24 town may issue bonds or incur other indebtedness for any
 25 purpose in an amount which with all outstanding and unpaid

1 indebtedness will exceed 28% 30.5% of the taxable value of
 2 the property therein subject to taxation, to be ascertained
 3 by the last assessment for state and county taxes.

4 (2) The issuing of bonds for the purpose of funding or
 5 refunding outstanding warrants or bonds is not the incurring
 6 of a new or additional indebtedness but is merely the
 7 changing of the evidence of outstanding indebtedness.

8 (3) The limitation in subsection (1) does not apply to
 9 bonds issued for the repayment of tax protests lost by the
 10 city or town."

11 **Section 21.** Section 7-7-4202, MCA, is amended to read:

12 "7-7-4202. Special provisions relating to water and
 13 sewer systems. (1) Notwithstanding the provisions of
 14 7-7-4201, for the purpose of constructing a sewer system,
 15 procuring a water supply, or constructing or acquiring a
 16 water system for a city or town which owns and controls the
 17 water supply and water system and devotes the revenues
 18 therefrom to the payment of the debt, a city or town may
 19 incur an additional indebtedness by borrowing money or
 20 issuing bonds.

21 (2) The additional total indebtedness that may be
 22 incurred by borrowing money or issuing bonds for the
 23 construction of a sewer system, for the procurement of a
 24 water supply, or for both such purposes, including all
 25 indebtedness theretofore contracted which is unpaid or

1 outstanding, may not in the aggregate exceed 55% over and
 2 above the 28% 30.5%, referred to in 7-7-4201, of the taxable
 3 value of the property therein subject to taxation as
 4 ascertained by the last assessment for state and county
 5 taxes."

6 **Section 22.** Section 7-13-4103, MCA, is amended to
 7 read:

8 "7-13-4103. Limitation on indebtedness for acquisition
 9 of natural gas system. The total amount of indebtedness
 10 authorized to be contracted in any form, including the
 11 then-existing indebtedness, must not at any time exceed 17%
 12 18.5% of the total taxable value of the property of the city
 13 or town subject to taxation as ascertained by the last
 14 assessment for state and county taxes."

15 **Section 23.** Section 7-14-236, MCA, is amended to read:

16 "7-14-236. Limitation on bonded indebtedness. The
 17 amount of bonds issued to provide funds for the district and
 18 outstanding at any time shall not exceed 28% 30.5% of the
 19 taxable value of taxable property therein as ascertained by
 20 the last assessment for state and county taxes previous to
 21 the issuance of such bonds."

22 **Section 24.** Section 7-14-2524, MCA, is amended to
 23 read:

24 "7-14-2524. Limitation on amount of bonds issued --
 25 excess void. (1) Except as otherwise provided hereafter and

1 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
 2 with all outstanding bonds and warrants except county high
 3 school bonds and emergency bonds, will exceed ~~11.25%~~ 12.25%
 4 of the total of the taxable value of the property therein,
 5 plus the amount of interim production and new production
 6 taxes levied divided by the appropriate tax rates described
 7 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 8 amount of value represented by new production exempted from
 9 tax as provided in 15-23-612. The taxable property and the
 10 amount of interim production and new production taxes levied
 11 shall be ascertained by the last assessment for state and
 12 county taxes prior to the issuance of such bonds.

13 (2) A county may issue bonds which, with all
 14 outstanding bonds and warrants except county high school
 15 bonds, will exceed ~~11.25%~~ 12.25% but will not exceed ~~22.5%~~
 16 24.5% of the total of the taxable value of such property,
 17 plus the amount of interim production and new production
 18 taxes levied divided by the appropriate tax rates described
 19 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 20 amount of value represented by new production exempted from
 21 tax as provided in 15-23-612, when necessary for the purpose
 22 of replacing, rebuilding, or repairing county buildings,
 23 bridges, or highways which have been destroyed or damaged by
 24 an act of God, disaster, catastrophe, or accident.

25 (3) The value of the bonds issued and all other

1 outstanding indebtedness of the county, except county high
 2 school bonds, shall not exceed ~~22.5%~~ 24.5% of the total of
 3 the taxable value of the property within the county, plus
 4 the amount of interim production and new production taxes
 5 levied divided by the appropriate tax rates described in
 6 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 7 amount of value represented by new production exempted from
 8 tax as provided in 15-23-612, as ascertained by the last
 9 preceding general assessment."

10 **Section 25.** Section 7-14-2525, MCA, is amended to
 11 read:

12 "7-14-2525. Refunding agreements and refunding bonds
 13 authorized. (1) Whenever the total indebtedness of a county
 14 exceeds ~~22.5%~~ 24.5% of the total of the taxable value of the
 15 property therein, plus the amount of interim production and
 16 new production taxes levied divided by the appropriate tax
 17 rates described in 15-23-607(2)(a) or (2)(b) and multiplied
 18 by 60%, plus the amount of value represented by new
 19 production exempted from tax as provided in 15-23-612, and
 20 the board determines that the county is unable to pay such
 21 indebtedness in full, the board may:

22 (a) negotiate with the bondholders for an agreement
 23 whereby the bondholders agree to accept less than the full
 24 amount of the bonds and the accrued unpaid interest thereon
 25 in satisfaction thereof;

1 (b) enter into such agreement;
 2 (c) issue refunding bonds for the amount agreed upon.
 3 (2) These bonds may be issued in more than one series,
 4 and each series may be either amortization or serial bonds.
 5 (3) The plan agreed upon between the board and the
 6 bondholders shall be embodied in full in the resolution
 7 providing for the issue of the bonds."

8 **Section 26.** Section 7-14-4402, MCA, is amended to
 9 read:

10 "7-14-4402. Limit on indebtedness to provide bus
 11 service. The total amount of indebtedness authorized under
 12 7-14-4401(1) to be contracted in any form, including the
 13 then-existing indebtedness, may not at any time exceed ~~28%~~
 14 30.5% of the total taxable value of the property of the city
 15 or town subject to taxation as ascertained by the last
 16 assessment for state and county taxes. No money may be
 17 borrowed or bonds issued for the purposes specified in
 18 7-14-4401(1) until the proposition has been submitted to the
 19 vote of the taxpayers of the city or town and the majority
 20 vote cast in its favor."

21 **Section 27.** Section 7-16-2327, MCA, is amended to
 22 read:

23 "7-16-2327. Indebtedness for park purposes. (1)
 24 Subject to the provisions of subsection (2), a county park
 25 board, in addition to powers and duties now given under law,

1 shall have the power and duty to contract an indebtedness in
 2 behalf of a county, upon the credit thereof, for the
 3 purposes of 7-16-2321(1) and (2).

4 (2) (a) The total amount of indebtedness authorized to
 5 be contracted in any form, including the then-existing
 6 indebtedness, must not at any time exceed ~~±3%~~ 14% of the
 7 total of the taxable value of the taxable property in the
 8 county, plus the amount of interim production and new
 9 production taxes levied divided by the appropriate tax rates
 10 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 11 60%, plus the amount of value represented by new production
 12 exempted from tax as provided in 15-23-612, ascertained by
 13 the last assessment for state and county taxes previous to
 14 the incurring of such indebtedness.

15 (b) No money may be borrowed on bonds issued for the
 16 purchase of lands and improving same for any such purpose
 17 until the proposition has been submitted to the vote of
 18 those qualified under the provisions of the state
 19 constitution to vote at such election in the county affected
 20 thereby and a majority vote is cast in favor thereof."

21 **Section 28.** Section 7-16-4104, MCA, is amended to
 22 read:

23 "7-16-4104. Authorization for municipal indebtedness
 24 for various cultural, social, and recreational purposes. (1)
 25 A city or town council or commission may contract an

1 indebtedness on behalf of the city or town, upon the credit
2 thereof, by borrowing money or issuing bonds:

3 (a) for the purpose of purchasing and improving lands
4 for public parks and grounds;

5 (b) for procuring by purchase, construction, or
6 otherwise swimming pools, athletic fields, skating rinks,
7 playgrounds, museums, a golf course, a site and building for
8 a civic center, a youth center, or combination thereof; and

9 (c) for furnishing and equipping the same.

10 (2) The total amount of indebtedness authorized to be
11 contracted in any form, including the then-existing
12 indebtedness, may not at any time exceed ~~16.5%~~ 18% of the
13 taxable value of the taxable property of the city or town as
14 ascertained by the last assessment for state and county
15 taxes previous to the incurring of such indebtedness. No
16 money may be borrowed on bonds issued for the purchase of
17 lands and improving the same for any such purpose until the
18 proposition has been submitted to the vote of the qualified
19 electors of the city or town and a majority vote is cast in
20 favor thereof."

21 **Section 29.** Section 7-31-106, MCA, is amended to read:

22 "7-31-106. Authorization for county to issue bonds --
23 election required. (1) If the petition is presented to the
24 board of county commissioners, it shall be the duty of the
25 board, for the purpose of raising money to meet the payments

1 under the terms and conditions of said contract and other
2 necessary and proper expenses in and about the same and for
3 the approval or disapproval thereof:

4 (a) to ascertain, within 30 days after submission of
5 the petition, the existing indebtedness of the county in the
6 aggregate; and

7 (b) to submit, within 60 days after ascertaining the
8 same, to the electors of such county the proposition to
9 approve or disapprove the contract and the issuance of bonds
10 necessary to carry out the same.

11 (2) The amount of the bonds authorized by this section
12 may not exceed ~~22.5%~~ 24.5% of the taxable value of the
13 taxable property therein, inclusive of the existing
14 indebtedness thereof, to be ascertained by the last
15 assessment for state and county taxes previous to the
16 issuance of said bonds and incurring of said indebtedness."

17 **Section 30.** Section 7-31-107, MCA, is amended to read:

18 "7-31-107. Authorization for municipality to issue
19 bonds -- election required. (1) If said petition is
20 presented to the council of any incorporated city or town,
21 the council, for the purpose of raising money to meet the
22 payments under the terms and conditions of said contract and
23 other necessary and proper expenses in and about the same
24 and for the approval or disapproval thereof:

25 (a) shall ascertain, within 30 days after submission

1 of the petition, the aggregate indebtedness of such city or
2 town; and

3 (b) shall submit, within 60 days after ascertaining
4 the same, to the electors of such city or town the
5 proposition to approve or disapprove said contract and the
6 issuance of bonds necessary to carry out the same.

7 (2) The amount of the bonds authorized by this section
8 may not exceed ~~16.5%~~ 18% of the taxable value of the taxable
9 property therein, inclusive of the existing indebtedness
10 thereof, to be ascertained in the manner provided in this
11 part."

12 **Section 31.** Section 7-34-2131, MCA, is amended to
13 read:

14 "7-34-2131. Hospital district bonds authorized. (1) A
15 hospital district may borrow money by the issuance of its
16 bonds to provide funds for payment of part or all of the
17 cost of acquisition, furnishing, equipment, improvement,
18 extension, and betterment of hospital facilities and to
19 provide an adequate working capital for a new hospital.

20 (2) The amount of bonds issued for such purpose and
21 outstanding at any time may not exceed ~~22.5%~~ 24.5% of the
22 taxable value of the property therein as ascertained by the
23 last assessment for state and county taxes previous to the
24 issuance of such bonds.

25 (3) Such bonds shall be authorized, sold, and issued

1 and provisions made for their payment in the manner and
2 subject to the conditions and limitations prescribed for
3 bonds of school districts by Title 20, chapter 9, part 4.

4 (4) Nothing herein shall be construed to preclude the
5 provisions of Title 50, chapter 6, part 1, allowing the
6 state to apply for and accept federal funds."

7 **Section 32.** Section 15-1-101, MCA, is amended to read:

8 "15-1-101. Definitions. (1) Except as otherwise
9 specifically provided, when terms mentioned in this section
10 are used in connection with taxation, they are defined in
11 the following manner:

12 (a) The term "agricultural" refers to the raising of
13 livestock, poultry, bees, and other species of domestic
14 animals and wildlife in domestication or a captive
15 environment, and the raising of field crops, fruit, and
16 other animal and vegetable matter for food or fiber.

17 (b) The term "assessed value" means the value of
18 property as defined in 15-8-111.

19 (c) The term "average wholesale value" means the value
20 to a dealer prior to reconditioning and profit margin shown
21 in national appraisal guides and manuals or the valuation
22 schedules of the department of revenue.

23 (d) (i) The term "commercial", when used to describe
24 property, means any property used or owned by a business, a
25 trade, or a nonprofit corporation as defined in 35-2-102 or

1 used for the production of income, except that property
2 described in subsection (ii).

3 (ii) The following types of property are not
4 commercial:

5 (A) agricultural lands;

6 (B) timberlands;

7 (C) single-family residences and ancillary
8 improvements and improvements necessary to the function of a
9 bona fide farm, ranch, or stock operation;

10 (D) mobile homes used exclusively as a residence
11 except when held by a distributor or dealer of trailers or
12 mobile homes as his stock in trade;

13 (E) all property described in 15-6-135; and

14 (F) all property described in 15-6-136; ~~and~~

15 ~~(G) all property described in 15-6-146.~~

16 (e) The term "comparable property" means property that
17 has similar use, function, and utility; that is influenced
18 by the same set of economic trends and physical,
19 governmental, and social factors; and that has the potential
20 of a similar highest and best use.

21 (f) The term "credit" means solvent debts, secured or
22 unsecured, owing to a person.

23 (g) The term "improvements" includes all buildings,
24 structures, fences, and improvements situated upon, erected
25 upon, or affixed to land. When the department of revenue or

1 its agent determines that the permanency of location of a
2 mobile home or housetrailer has been established, the mobile
3 home or housetrailer is presumed to be an improvement to
4 real property. A mobile home or housetrailer may be
5 determined to be permanently located only when it is
6 attached to a foundation which cannot feasibly be relocated
7 and only when the wheels are removed.

8 (h) The term "leasehold improvements" means
9 improvements to mobile homes and mobile homes located on
10 land owned by another person. This property is assessed
11 under the appropriate classification and the taxes are due
12 and payable in two payments as provided in 15-24-202.
13 Delinquent taxes on such leasehold improvements are a lien
14 only on such leasehold improvements.

15 (i) The term "livestock" means cattle, sheep, swine,
16 goats, horses, mules, and asses.

17 (j) The term "mobile home" means forms of housing
18 known as "trailers", "housetrailer", or "trailer coaches"
19 exceeding 8 feet in width or 45 feet in length, designed to
20 be moved from one place to another by an independent power
21 connected to them, or any "trailer", "housetrailer", or
22 "trailer coach" up to 8 feet in width or 45 feet in length
23 used as a principal residence.

24 (k) The term "personal property" includes everything
25 that is the subject of ownership but that is not included

1 within the meaning of the terms "real estate" and
2 "improvements".

3 (l) The term "poultry" includes all chickens, turkeys,
4 geese, ducks, and other birds raised in domestication to
5 produce food or feathers.

6 (m) The term "property" includes moneys, credits,
7 bonds, stocks, franchises, and all other matters and things,
8 real, personal, and mixed, capable of private ownership.
9 This definition must not be construed to authorize the
10 taxation of the stocks of any company or corporation when
11 the property of such company or corporation represented by
12 the stocks is within the state and has been taxed.

13 (n) The term "real estate" includes:

14 (i) the possession of, claim to, ownership of, or
15 right to the possession of land;

16 (ii) all mines, minerals, and quarries in and under the
17 land subject to the provisions of 15-23-501 and Title 15,
18 chapter 23, part 8; all timber belonging to individuals or
19 corporations growing or being on the lands of the United
20 States; and all rights and privileges appertaining thereto.

21 (o) "Research and development firm" means an entity
22 incorporated under the laws of this state or a foreign
23 corporation authorized to do business in this state whose
24 principal purpose is to engage in theoretical analysis,
25 exploration, and experimentation and the extension of

1 investigative findings and theories of a scientific and
2 technical nature into practical application for experimental
3 and demonstration purposes, including the experimental
4 production and testing of models, devices, equipment,
5 materials, and processes.

6 (p) The term "taxable value" means the percentage of
7 market or assessed value as provided for in ~~15-6-131~~ through
8 ~~15-6-149~~ Title 15, chapter 6, part 1.

9 (q) The term "weighted mean assessment ratio" means
10 the total of the assessed values divided by the total of the
11 selling prices of all area sales in the stratum.

12 (2) The phrase "municipal corporation" or
13 "municipality" or "taxing unit" shall be deemed to include a
14 county, city, incorporated town, township, school district,
15 irrigation district, drainage district, or any person,
16 persons, or organized body authorized by law to establish
17 tax levies for the purpose of raising public revenue.

18 (3) The term "state board" or "board" when used
19 without other qualification shall mean the state tax appeal
20 board."

21 **Section 33.** Section 15-6-137, MCA, is amended to read:

22 "15-6-137. Class seven property -- description --
23 taxable percentage. (1) Class seven property includes:

24 (a) all property used and owned by persons, firms,
25 corporations, or other organizations that are engaged in the

1 business of furnishing telephone communications exclusively
2 to rural areas or to rural areas and cities and towns of 800
3 persons or less;

4 (b) all property owned by cooperative rural electrical
5 and cooperative rural telephone associations that serve less
6 than 95% of the electricity consumers or telephone users
7 within the incorporated limits of a city or town;

8 (c) electric transformers and meters; electric light
9 and power substation machinery; natural gas measuring and
10 regulating station equipment, meters, and compressor station
11 machinery owned by noncentrally assessed public utilities;
12 and tools used in the repair and maintenance of this
13 property;

14 (d) any tools or implements that are not included in
15 another class or that are exempt under 15-6-201(1)(r), and
16 machinery used to repair and maintain machinery not used for
17 manufacturing and mining purposes.

18 (2) To qualify for this classification, the average
19 circuit miles for each station on the telephone
20 communication system described in subsection (1)(b) must be
21 more than 1 mile.

22 (3) Class seven property is taxed at ~~8%~~ 4% of its
23 market value."

24 **Section 34.** Section 15-6-138, MCA, is amended to read:

25 "15-6-138. Class eight property -- description --

1 taxable percentage. (1) Class eight property includes:

2 (a) all agricultural implements and equipment;

3 (b) all mining machinery, fixtures, equipment, tools
4 that are not exempt under 15-6-201(1)(r), and supplies
5 except:

6 ~~(i)~~ those included in class five; and

7 ~~(ii)~~ coal and ore hauliers;

8 (c) all manufacturing machinery, fixtures, equipment,
9 tools that are not exempt under 15-6-201(1)(r), and supplies
10 except those included in class five;

11 (d) all trailers, including those prorated under
12 15-24-102, except those subject to taxation under
13 61-3-504(2);

14 (e) all goods and equipment intended for rent or
15 lease, except goods and equipment specifically included and
16 taxed in another class;

17 (f) buses and trucks having a rated capacity of more
18 than 1 ton, including those prorated under 15-24-102; and

19 ~~(g) all other machinery except that specifically~~
20 ~~included in another class;~~

21 (g) truck toppers weighing more than 300 pounds;

22 (h) furniture, fixtures, and equipment, except that
23 specifically included in another class, used in commercial
24 establishments as defined in this section;

25 (i) x-ray and medical and dental equipment;

1 (j) citizens' band radios and mobile telephones;
 2 (k) radio and television broadcasting and transmitting
 3 equipment;
 4 (l) cable television systems;
 5 (m) coal and ore haulers;
 6 (n) theater projectors and sound equipment; and
 7 (o) all other property not included in any other class
 8 in this part, except that property subject to a fee in lieu
 9 of a property tax.

10 (2) As used in this section, "coal and ore haulers"
 11 means nonhighway vehicles that exceed 18,000 pounds per axle
 12 and that are primarily designed and used to transport coal,
 13 ore, or other earthen material in a mining or quarrying
 14 environment.

15 (3) "Commercial establishment" includes any hotel;
 16 motel; office; petroleum marketing station; or service,
 17 wholesale, retail, or food-handling business.

18 ~~(2)~~ (4) Class eight property is taxed at ~~11%~~ 4% of its
 19 market value."

20 **Section 35.** Section 15-10-402, MCA, is amended to
 21 read:

22 "15-10-402. Property tax limited to 1986 levels. (1)
 23 Except as provided in subsections (2) and (3), the amount of
 24 taxes levied on property described in 15-6-133, 15-6-134,
 25 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any

1 taxing jurisdiction, exceed the amount levied for taxable
 2 year 1986.

3 (2) The limitation contained in subsection (1) does
 4 not apply to levies for rural improvement districts, Title
 5 7, chapter 12, part 21; special improvement districts, Title
 6 7, chapter 12, part 41; or bonded indebtedness.

7 (3) New construction or improvements to or deletions
 8 from property described in subsection (1) are subject to
 9 taxation at 1986 levels.

10 (4) As used in this section, the "amount of taxes
 11 levied" and the "amount levied" mean the actual dollar
 12 amount of taxes imposed on an individual piece of property,
 13 notwithstanding an increase or decrease in value due to
 14 inflation, reappraisal, adjustments in the percentage
 15 multiplier used to convert appraised value to taxable value,
 16 changes in the number of mills levied, or increase or
 17 decrease in the value of a mill."

18 **Section 36.** Section 15-24-1102, MCA, is amended to
 19 read:

20 "15-24-1102. Federal property held under contract of
 21 sale. When the property is held under a contract of sale or
 22 other agreement whereby upon payment the legal title is or
 23 may be acquired by the person, the real property shall be
 24 assessed and taxed as defined in ~~15-6-131--through--15-6-149~~
 25 Title 15, chapter 6, part 1, and 15-8-111 without deduction

1 on account of the whole or any part of the purchase price or
 2 other sum due on the property remaining unpaid. The lien for
 3 the tax may not attach to, impair, or be enforced against
 4 any interest of the United States in the real property."

5 **Section 37.** Section 15-24-1103, MCA, is amended to
 6 read:

7 "15-24-1103. Federal property held under lease. When
 8 the property is held under lease, other interest, or estate
 9 therein less than the fee, except under contract of sale,
 10 the property shall be assessed and taxed as for the value,
 11 as defined in ~~15-6-131 through 15-6-149~~ Title 15, chapter 6,
 12 part 1, of such leasehold, interest, or estate in the
 13 property and the lien for the tax shall attach to and be
 14 enforced against only the leasehold, interest, or estate in
 15 the property. When the United States authorizes the taxation
 16 of the property for the full assessed value of the fee
 17 thereof, the property shall be assessed for full assessed
 18 value as defined in 15-8-111."

19 **Section 38.** Section 15-35-103, MCA, is amended to
 20 read:

21 "15-35-103. Severance tax -- rates rate imposed. (1)
 22 Subject to the provisions of 15-35-202 allowing a new coal
 23 production incentive tax credit, a severance tax of 1% of
 24 value is imposed on each ton of coal produced in the state,
 25 ~~in accordance with the following schedule:~~

1	(a)--After June 30, 1987, and before July 17, 1990:		
2	Heating-quality	Surface--	Underground
3	(Btu-per-pound	Mining--	Mining---
4	---of-coal):	-	
5	Under-77000	17%-of-value	3%-of-value
6	77000-and-over	25%-of-value	4%-of-value
7	(b)--After June 30, 1990, and before July 17, 1991:		
8	Heating-quality	Surface--	Underground
9	(Btu-per-pound	Mining--	Mining---
10	---of-coal):	-	
11	Under-77000	13%-of-value	3%-of-value
12	77000-and-over	20%-of-value	4%-of-value
13	(c)--After June 30, 1991:		
14	Heating-quality	Surface--	Underground
15	(Btu-per-pound	Mining--	Mining---
16	---of-coal):	-	
17	Under-77000	10%-of-value	3%-of-value
18	77000-and-over	15%-of-value	4%-of-value

19 (2) "Value" means the contract sales price.

20 ~~(3)--The formula which yields the greater amount of tax~~
 21 ~~in a particular case shall be used at each point on these~~
 22 ~~schedules:~~

23 ~~(4)(3)~~ A person is not liable for any severance tax
 24 upon 50,000 tons of the coal he produces in a calendar year,
 25 except that if he produces more than 50,000 tons of coal in

1 a calendar year, he will be liable for severance tax upon
2 all coal produced in excess of the first 20,000 tons.

3 ~~(5)~~(4) A new coal production incentive tax credit may
4 be claimed on certain coal as provided in 15-35-202."

5 **Section 39.** Section 19-11-503, MCA, is amended to
6 read:

7 "19-11-503. **Special tax levy for fund required.** (1)
8 The purpose of this section is to provide a means by which
9 each disability and pension fund may be maintained at a
10 level equal to 4% 4.3% of the taxable valuation of all
11 taxable property within the limits of the city or town.

12 (2) Whenever the fund contains less than 4% 4.3% of
13 the taxable valuation of all taxable property within the
14 limits of the city or town, the governing body of the city
15 or town shall, at the time of the levy of the annual tax,
16 levy a special tax as provided in 19-11-504. The special tax
17 must be collected as other taxes are collected and, when so
18 collected, must be paid into the disability and pension
19 fund.

20 (3) If a special tax for the disability and pension
21 fund is levied by a third-class city or town using the
22 all-purpose mill levy, the special tax levy must be made in
23 addition to the all-purpose levy."

24 **Section 40.** Section 19-11-504, MCA, is amended to
25 read:

1 "19-11-504. **Amount of special tax levy.** Whenever the
2 fund contains an amount which is less than 4% 4.3% of the
3 taxable valuation of all taxable property in the city or
4 town, the city council shall levy an annual special tax of
5 not less than 1 mill and not more than 4 mills on each
6 dollar of taxable valuation of all taxable property within
7 the city or town."

8 **Section 41.** Section 20-9-343, MCA, is amended to read:

9 "20-9-343. **Definition of and revenue for state**
10 **equalization aid.** (1) As used in this title, the term "state
11 equalization aid" means ~~those moneys~~ the money deposited in
12 the state special revenue fund as required in this section
13 plus any legislative appropriation of money from other
14 sources for distribution to the public schools for the
15 purpose of equalization of the foundation program.

16 (2) The ~~legislative--appropriation~~ legislature shall
17 biennially appropriate money for state equalization aid
18 ~~shall--be--made--in--a--single--sum--for--the--biennium.~~ The
19 superintendent of public instruction ~~has--authority--to~~ may
20 spend ~~such~~ the appropriation, together with the earmarked
21 revenues provided in subsection (3), as required for
22 foundation program purposes throughout the biennium.

23 (3) The following ~~shall~~ must be paid into the state
24 special revenue fund for state equalization aid to public
25 schools of the state:

1 (a) 31.8% of all money received from the collection of
2 income taxes under chapter 30 of Title 15;

3 (b) 25% of all money, except as provided in 15-31-702,
4 received from the collection of corporation license and
5 income taxes under chapter 31 of Title 15, as provided by
6 15-1-501;

7 (c) 100% of the money allocated to state equalization
8 from the collection of the severance tax on coal;

9 (d) 100% of the money received from the treasurer of
10 the United States as the state's shares of oil, gas, and
11 other mineral royalties under the federal Mineral Lands
12 Leasing Act, as amended;

13 (e) interest and income money described in 20-9-341
14 and 20-9-342;

15 (f) income from the education trust fund account; and

16 (g) in addition to these revenues, the surplus
17 revenues collected by the counties for foundation program
18 support according to 20-9-331 and 20-9-333; and

19 (h) all money collected from the sales tax on coal as
20 provided in [section 7].

21 (4) Any surplus revenue in the state equalization aid
22 account in the second year of a biennium may be used to
23 reduce the appropriation required for the next succeeding
24 biennium."

25 **Section 42.** Section 20-9-406, MCA, is amended to read:

1 **"20-9-406. Limitations on amount of bond issue. (1)**
2 The maximum amount for which each school district may become
3 indebted by the issuance of bonds, including all
4 indebtedness represented by outstanding bonds of previous
5 issues and registered warrants, is ~~45%~~ 49% of the taxable
6 value of the property subject to taxation as ascertained by
7 the last completed assessment for state, county, and school
8 taxes previous to the incurring of such indebtedness. The
9 ~~45%~~ maximum, however, may not pertain to indebtedness
10 imposed by special improvement district obligations or
11 assessments against the school district or to bonds issued
12 for the repayment of tax protests lost by the district. All
13 bonds issued in excess of such amount shall be null and
14 void, except as provided in this section.

15 (2) When the total indebtedness of a school district
16 has reached the ~~45%~~ limitation prescribed in this section,
17 the school district may pay all reasonable and necessary
18 expenses of the school district on a cash basis in
19 accordance with the financial administration provisions of
20 this chapter.

21 (3) Whenever bonds are issued for the purpose of
22 refunding bonds, any moneys to the credit of the debt
23 service fund for the payment of the bonds to be refunded are
24 applied towards the payment of such bonds and the refunding
25 bond issue is decreased accordingly."

Section 43. Section 20-9-407, MCA, is amended to read:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the 45% limitation prescribed in 20-9-406. Under such an agreement, the school district may, with the approval of the voters, issue bonds which exceed the limitation prescribed in this section by a maximum of ~~45%~~ 49% of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a

precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

(3) A major industrial facility is a facility subject to the taxing power of the school district, whose construction or operation will increase the population of the district, imposing a significant burden upon the resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

Section 44. Section 20-9-502, MCA, is amended to read:

1 **"20-9-502. Purpose and authorization of a building**
2 **reserve fund by an election. (1) The trustees of any**
3 **district, with the approval of the qualified electors of the**
4 **district, may establish a building reserve for the purpose**
5 **of raising money for the future construction, equipping, or**
6 **enlarging of school buildings or for the purpose of**
7 **purchasing land needed for school purposes in the district.**
8 **In order to submit to the qualified electors of the district**
9 **a building reserve proposition for the establishment of or**
10 **addition to a building reserve, the trustees shall pass a**
11 **resolution that specifies:**

- 12 (a) the purpose or purposes for which the new or
13 addition to the building reserve will be used;
14 (b) the duration of time over which the new or
15 addition to the building reserve will be raised in annual,
16 equal installments;
17 (c) the total amount of money that will be raised
18 during the duration of time specified in subsection (1)(b);
19 and
20 (d) any other requirements under 20-20-201 for the
21 calling of an election.

22 (2) The total amount of building reserve when added to
23 the outstanding indebtedness of the district shall not be
24 more than ~~45%~~ 49% of the taxable value of the taxable
25 property of the district. Such limitation shall be

1 determined in the manner provided in 20-9-406. A building
2 reserve tax authorization shall not be for more than 20
3 years.

4 (3) The election shall be conducted in accordance with
5 the school election laws of this title, and the electors
6 qualified to vote in the election shall be qualified under
7 the provisions of 20-20-301. The ballot for a building
8 reserve proposition shall be substantially in the following
9 form:

10 OFFICIAL BALLOT

11 SCHOOL DISTRICT BUILDING RESERVE ELECTION

12 INSTRUCTIONS TO VOTERS: Make an X or similar mark in
13 the vacant square before the words "BUILDING RESERVE--YES"
14 if you wish to vote for the establishment of a building
15 reserve (addition to the building reserve); if you are
16 opposed to the establishment of a building reserve (addition
17 to the building reserve) make an X or similar mark in the
18 square before the words "BUILDING RESERVE--NO".

19 Shall the trustees be authorized to impose an
20 additional levy each year for years to establish a
21 building reserve (add to the building reserve) of this
22 school district to raise a total amount of dollars
23 (\$....), for the purpose(s) (here state the purpose or
24 purposes for which the building reserve will be used)?

25 BUILDING RESERVE--YES.

BUILDING RESERVE--NO.

(4) The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used."

NEW SECTION. Section 45. Repealer. Sections 15-6-139, 15-6-140, and 15-6-146, MCA, are repealed.

NEW SECTION. Section 46. Effective date. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) If [this act] is passed and approved after July 1, 1989, [this act] is effective retroactively, within the meaning of 1-2-109, to July 1, 1989.

NEW SECTION. Section 47. Applicability --

contingency. (1) If [this act] is passed and approved after June 30, 1989, [sections 1 through 10] apply retroactively, within the meaning of 1-2-109, to all coal sold and the receipts from such sales after June 30, 1989. Receipts from coal sold prior to July 1, 1989, are not subject to the tax imposed in [section 2], regardless of when the receipts from the sale are collected.

(2) If [this act] is passed and approved prior to July 1, 1989, [sections 1 through 10] apply July 1, 1989, to all receipts from the sale of coal occurring after June 30, 1989. Receipts from coal sold prior to July 1, 1989, are not subject to the tax imposed in [section 2], regardless of when the receipts from the sale are collected.

(3) [Sections 11 through 44] apply to taxable years beginning after December 31, 1989, and to fiscal years beginning after June 30, 1990.

NEW SECTION. Section 48. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 49. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are

LC 0018/01

1 invalid.

2 NEW SECTION. **Section 50.** Codification instruction.

3 [Sections 1 through 10] are intended to be codified as an
4 integral part of Title 15, and the provisions of Title 15
5 apply to [sections 1 through 10].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB22, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act reducing to a single rate the property tax rate on personal property; combining personal property classes; revising county classifications and debt and levy limitations of local governments, including school districts; imposing a tax on the receipts from the sale of coal and allocating the money to state equalization aid; reducing the severance tax on coal to 1 percent; and providing an effective date and applicability dates.

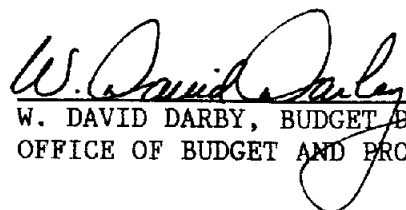
ASSUMPTIONS:

1. The taxable value of the state will be \$1,903,008,000 in FY90 and \$1,882,194,000 in FY91. (HJR13)
2. Reclassification of property will reduce the taxable value of personal property in the state by \$160,470,000 and real property in the state by \$300,000 (combined reduction of \$160,770,000).
4. Due to the applicability date, the reduced rate for reclassified, unsecured personal property (30 percent of all reclassified personal property) will impact FY90 revenues.
5. Coal severance tax receipts are estimated to be \$52,902,000 in FY90 and \$46,871,000 in FY91, with 3.8% each year available for state equalization aid. Debt service payments for water development bonds amount to \$605,000 annually. (HJR13)
6. There is no impact on Department of Revenue expenditures.

FISCAL IMPACT:

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
University Levy	\$11,418,000	\$11,129,202	(\$288,798)	\$ 11,293,000	10,328,538	(964,462)
Foundation Program	85,635,000	83,469,015	(2,165,985)	84,699,000	77,464,035	(7,234,965)
Total	\$97,053,000	\$94,598,217	(\$2,454,783)	\$95,992,000	\$87,792,573	(\$8,199,427)
Individual						
Income Tax	\$256,617,000	\$256,617,000	0	\$274,732,000	\$275,792,000	\$ 1,060,000
Corporation						
License Tax	51,044,000	51,044,000	0	51,574,000	52,514,000	940,000
Coal Severance Tax	52,902,000	14,878,688	(38,023,313)	46,871,000	2,338,411	(44,532,589)
Coal Sales Tax	0	38,023,313	38,023,313	0	44,532,589	44,532,589
Coal Trust						
Interest	42,988,235	42,678,235	(310,000)	45,465,882	43,056,882	(2,409,000)
	\$403,551,235	\$403,241,236	\$(310,000)	\$418,642,882	\$418,233,882	(\$ 409,000)


 W. DAVID DARBY, BUDGET DIRECTOR
 OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 7/1/89


 DELWYN GAGE, PRIMARY SPONSOR

DATE 7/6/89

Fiscal Note for SB22, as introduced

SB 22

FUND INFORMATION:
COAL SEVERANCE TAX

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Coal Tax Trust Fund	\$25,846,000	\$7,439,344	(\$18,406,656)	\$22,830,500	\$1,169,205	(\$21,661,295)
Highway Reconstr.	6,348,240	1,785,443	(4,562,798)	5,624,520	280,609	(5,343,911)
Local Impact	3,517,983	989,433	(2,528,550)	3,116,922	155,504	(2,961,417)
Education Trust	4,020,552	1,130,780	(2,889,772)	3,562,196	177,719	(3,384,477)
Foundation Program	2,010,276	565,390	(1,444,886)	1,781,098	88,860	(1,692,238)
County Land Planning	201,028	56,539	(144,489)	178,110	8,886	(169,224)
Renewable Resource	251,285	70,674	(180,611)	222,637	11,107	(211,530)
Cultural/Aesthetic	1,005,138	282,695	(722,443)	890,549	44,430	(846,119)
State Library Com.	201,028	56,539	(144,489)	178,110	8,886	(169,224)
Conservation Dist.	100,514	28,270	(72,244)	89,055	4,443	(84,612)
Water Development	251,285	70,674	(180,611)	222,637	11,107	(211,530)
Agriculture Act	402,055	113,078	(288,977)	356,220	17,772	(338,448)
General Fund	8,141,618	2,289,830	(5,851,788)	7,213,447	359,882	(6,853,565)
TOTAL	\$52,902,000	\$14,878,688	(\$38,023,313)	\$46,871,000	\$2,338,411	(\$44,532,589)

*Debt Service payments for water development bonds of \$605,000 annually.

COAL SALES TAX

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Coal Tax Trust Fund	\$0	\$0	\$0	\$0	\$0	\$0
Highway Reconstr.	0	4,562,798	4,562,798	0	5,343,911	5,343,911
Local Impact	0	2,528,550	2,528,550	0	2,961,417	2,961,417
Education Trust	0	2,889,772	2,889,772	0	3,384,477	3,384,477
Foundation Program	0	1,444,886	1,444,886	0	1,692,238	1,692,238
County Land Planning	0	144,489	144,489	0	169,224	169,224
Renewable Resource	0	180,611	180,611	0	211,530	211,530
Cultural/Aesthetic	0	722,443	722,443	0	846,119	846,119
State Library Com.	0	144,489	144,489	0	169,224	169,224
Conservation Dist.	0	72,244	72,244	0	84,612	84,612
Water Development	0	180,611	180,611	0	211,530	211,530
Agriculture Act	0	288,977	288,977	0	338,448	338,448
General Fund	0	24,863,444	24,863,444	0	29,119,860	29,119,860
TOTAL	\$0	\$38,023,313	\$38,023,313	\$0	\$44,532,589	\$44,532,589

SB 22

Fiscal Note Request, SB22 as introduced

Form BD-15

Page 3

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Individual Income Tax</u>						
General Fund	\$149,350,575	\$149,350,575	\$ 0	\$159,893,927	\$160,510,847	\$ 616,920
Foundation Program	81,603,923	81,603,923	0	87,364,723	87,701,803	337,080
Debt Service	25,661,611	25,661,611	0	27,473,183	27,579,183	106,000
Total	\$256,616,109	\$256,616,109	\$ 0	\$274,731,833	\$275,791,833	\$ 1,060,000
<u>Corporation License Tax</u>						
General Fund	\$ 29,932,020	\$ 29,932,020	\$ 0	\$ 30,165,261	\$ 30,766,861	\$ 601,600
Foundation Program	11,692,195	11,692,195	0	11,783,305	12,018,305	235,000
Debt Service	15,144,566	5,144,566	0	5,184,654	5,288,054	103,400
Local Government	4,270,867	4,270,867	0	4,335,133	4,335,133	0
Total	\$ 51,039,648	\$ 51,039,648	\$ 0	\$ 51,468,353	\$ 52,408,353	\$ 940,000
<u>Coal Trust Interest</u>						
General Fund	\$ 36,540,000	\$ 36,276,500	(\$ 263,500)	\$ 38,646,000	\$ 36,598,350	(\$2,047,650)
Coal Trust Fund	6,448,235	6,401,735	(46,500)	6,819,882	6,458,532	(361,350)
TOTAL	\$ 42,988,235	\$ 42,678,235	(\$ 310,000)	\$ 45,465,882	\$ 43,056,882	(\$2,409,000)

LOCAL GOVERNMENT IMPACT:

The personal property tax provisions in the proposal reduce revenues to local schools by \$5,933,000 in FY90 and \$19,817,000 in FY91. County revenues decrease \$3,314,000 in FY90 and \$11,072,000 in FY91. Cities and towns lose \$977,000 in FY90 and \$3,258,000 in FY91.

SB 22

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Handwritten signatures and initials
BILL NO. *SB 22*
INTRODUCED BY *Rep. Redberg, Robert, Sullivan*

BY REQUEST OF THE GOVERNOR *Dionotto*

A BILL FOR AN ACT ENTITLED: *AN ACT REDUCING TO A SINGLE*
RATE THE PROPERTY TAX RATE ON PERSONAL PROPERTY; COMBINING
PERSONAL PROPERTY CLASSES; REVISING COUNTY CLASSIFICATIONS
AND DEBT AND LEVY LIMITATIONS OF LOCAL GOVERNMENTS,
INCLUDING SCHOOL DISTRICTS; IMPOSING A TAX ON THE RECEIPTS
FROM THE SALE OF COAL AND ALLOCATING THE MONEY TO STATE
EQUALIZATION AID; REDUCING THE SEVERANCE TAX ON COAL TO 1
PERCENT; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211,
7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203,
7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524,
7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106,
7-31-107, 7-34-2131, 15-1-101, 15-6-137, 15-6-138,
15-10-402, 15-24-1102, 15-24-1103, 15-35-103, 19-11-503,
19-11-504, 20-9-343, 20-9-406, 20-9-407, AND 20-9-502, MCA;
REPEALING SECTIONS 15-6-139, 15-6-140, AND 15-6-146, MCA;
AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 10] requires the department of revenue to adopt
rules to implement a sales tax on receipts from the sale of

THERE IS NO CHANGE ON SB 22 AND WILL NOT BE
REPRINTED. PLEASE REFER TO INTRODUCED COPY
(WHITE) FOR COMPLETE TEXT.



1 SENATE BILL NO. 22

2 INTRODUCED BY GAGE, REBERG, PAVLOVICH, QUILICI,
3 GILBERT, GIACOMETTO, GOULD, ROTH, HANSON, IVERSON,
4 GLASER, COMPTON, D. BROWN, JACOBSON, DRISCOLL,
5 GRADY, MERCER, STIMATZ, HARDING, THAYER, HAYNE,
6 RASMUSSEN, STEPLER, SIMON, THOMAS, MENAHAN, DAILY

7 BY REQUEST OF THE GOVERNOR

8
9 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING TO A SINGLE
10 RATE THE PROPERTY TAX RATE ON CERTAIN PERSONAL PROPERTY;
11 COMBINING PERSONAL PROPERTY CLASSES; REVISING COUNTY
12 CLASSIFICATIONS AND DEBT AND LEVY LIMITATIONS OF LOCAL
13 GOVERNMENTS, INCLUDING SCHOOL DISTRICTS; IMPOSING A
14 PRIVILEGE TAX ON THE RECEIPTS FROM THE SALE EXTRACTION OF
15 COAL AND ALLOCATING THE MONEY TO STATE EQUALIZATION AID;
16 PROVIDING A PRIVILEGE TAX CREDIT; PROVIDING WATER BOND
17 BACKING; REDUCING THE SEVERANCE TAX ON COAL TO 1 PERCENT;
18 AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121,
19 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201,
20 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525,
21 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107,
22 7-34-2131, 15-1-101, 15-6-137, 15-6-138, 15-10-402,
23 15-24-1102, 15-24-1103, 15-35-103, 19-11-503, 19-11-504,
24 20-9-343, 20-9-406, 20-9-407, AND 20-9-502, MCA; REPEALING
25 SECTIONS 15-6-139, 15-6-140, AND 15-6-146, MCA; AND

1 PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

2
3 STATEMENT OF INTENT

4 A statement of intent is required for this bill because
5 [section 10] requires the department of revenue to adopt
6 rules to implement a sales PRIVILEGE tax on receipts--from
7 the--sale EXTRACTION of coal. It is the intent of the
8 legislature that the department adopt rules that address, at
9 a minimum, reporting forms to be used by persons required to
10 pay the sales PRIVILEGE tax on coal and other rules as may
11 be necessary to implement and administer the sales tax on
12 coal.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Definitions. As used in
16 {sections 1 through 18}, the following definitions apply:

17 {1} "Buying", "selling", "sell", or "sale" means the
18 transfer of coal for consideration.

19 {2} "Contract sales price" means contract sales price
20 as defined in 15-35-102.

21 {3} "Department" means the department of revenue.

22 {4} "Engaged in the business" means carrying on or
23 causing to be carried on the sale of coal for the purpose of
24 direct or indirect benefit.

25 {5} "Person" means:

1 (a) an individual, estate, trust, receiver,
 2 cooperative association, club, corporation, company, firm,
 3 partnership, joint venture, syndicate, or other entity, or
 4 (b) the United States or any agency or instrumentality
 5 of the United States or the state of Montana or any
 6 political subdivision of the state.
 7 (6) (a) "Receipts" means the total amount of money or
 8 the value of other consideration received from selling coal
 9 in Montana. The term includes all receipts from the sale of
 10 coal handled on consignment but excludes cash discounts
 11 allowed and taken and any type of time-price differential.
 12 (b) In an exchange in which the money or other
 13 consideration received does not represent the value of the
 14 coal exchanged, receipts means the value of the coal or
 15 other property or consideration exchanged.
 16 (c) (i) Except as provided in section 6, when the
 17 sale of coal is made under any type of charge or conditional
 18 or time sales contract, the seller shall treat all receipts
 19 under the contract, excluding any type of time-price
 20 differential, as receipts at the time of sale.
 21 (ii) If the seller transfers his interest in a contract
 22 to a third person, the seller shall pay the sales tax upon
 23 the full sale or contract amount, excluding any type of
 24 time-price differential.
 25 (d) For the purpose of the business of buying,

1 selling or promoting, as an agent or broker on a commission
 2 or fee basis, the purchase or sale of any coal in Montana,
 3 receipts includes the total commissions or fees derived from
 4 the business.

5 (7) "Sales tax" means the applicable tax imposed by
 6 section 2.

7 NEW SECTION. Section 1. Imposition and rate of sales
 8 PRIVILEGE tax on coal. (1) Except as provided in subsection
 9 (3), a sales tax is imposed on all receipts from the sale of
 10 coal in this state.

11 (2) The rate of the sales PRIVILEGE tax on coal is as
 12 follows:

13 (a)(1) After June 30, 1989, and before July 1, 1990:

14 Heating quality	Surface	Underground
15 (Btu per pound	Mining	Mining
16 of coal):		
17 Under 7,000	16% of contract	2% of contract
18	sales price	sales price
19 7,000 and over	24% of contract	3% of contract
20	sales price	sales price

21 (b)(2) After June 30, 1990, and before July 1, 1991:

1 Heating quality Surface Underground
 2 (Btu per pound Mining Mining
 3 of coal):
 4 Under 7,000 12% of contract 2% of contract
 5 sales price sales price
 6 7,000 and over 19% of contract 3% of contract
 7 sales price sales price
 8 (c)(3) After June 30, 1991:
 9 Heating quality Surface Underground
 10 (Btu per pound Mining Mining
 11 of coal):
 12 Under 7,000 9% of contract 2% of contract
 13 sales price sales price
 14 7,000 and over 14% of contract 3% of contract
 15 sales price sales price
 16 (3) If the receipts are generated from a sale of coal
 17 that is exempt from the coal severance tax under
 18 15-35-103(3), the receipts are also exempt from the sales
 19 tax imposed by this section.
 20 NEW SECTION. Section 2. Presumption of taxability
 21 value. In order to prevent evasion of the sales tax and to
 22 aid in its administration, it is presumed that all receipts
 23 from the sale of coal are subject to the sales tax.
 24 NEW SECTION. Section 4. Separate statement of tax
 25 (1) If the sales tax is stated separately on the books of

1 the seller and the total amount of tax stated separately on
 2 transactions within the reporting period is in excess of the
 3 amount of sales tax payable on those transactions, the
 4 excess amount of tax otherwise payable and stated on the
 5 transactions within the reporting period must be included in
 6 receipts.
 7 (2) If the sales tax is not stated separately on
 8 transactions, the receipts for sales tax purposes include
 9 the total amounts received, with no deduction for the sales
 10 tax.
 11 NEW SECTION. Section 5. Agents for collection of
 12 sales tax severability. (1) A person who sells or
 13 attempts to sell coal within this state shall collect the
 14 sales tax from the buyer and pay the tax collected to the
 15 department.
 16 (2) To ensure the orderly and efficient collection of
 17 the tax imposed by sections 1 through 10, if any
 18 application of this section is held invalid, the section's
 19 application to other situations or persons is not affected.
 20 NEW SECTION. Section 6. Application for permission to
 21 report on accrual basis. (1) A person may apply to the
 22 department for permission to report and pay the sales tax on
 23 an accrual basis.
 24 (2) The application must be made on a form prescribed
 25 by the department that contains information the department

1 may require;
2 (3)--A person may not report or pay the sales tax on an
3 accrual basis unless he has received written permission from
4 the department;

5 ~~NEW SECTION.~~ **Section 7.** Returns ----- payment -----
6 authority of department ---- disposition of revenue. (1) Not
7 more than 30 days following the end of each calendar
8 quarter, each person engaged in the business of selling coal
9 shall file a return on a form provided by the department and
10 pay the tax imposed by {sections 1 through 10} for the
11 preceding quarter. Each return must contain a confession of
12 judgment for the amount of the tax shown due, to the extent
13 not timely paid. The return must be signed by the person
14 filing the return or by his agent duly authorized in
15 writing;

16 (2) (a) A person liable for the taxes imposed by
17 {sections 1 through 10} shall keep records, render
18 statements, make returns, and comply with the provisions of
19 {sections 1 through 10} and rules prescribed by the
20 department;

21 (b) For the purpose of determining compliance with the
22 provisions of this section, the department is authorized to
23 examine or cause to be examined any books, papers, records,
24 or memoranda relevant to making a determination of the
25 amount of tax due, whether the books, papers, records, or

1 memoranda are the property of or in the possession of the
2 person filing the return or another person. The department
3 may also:

4 (i) require the attendance of a person having
5 knowledge or information relevant to a return;

6 (ii) compel the production of books, papers, records,
7 or memoranda by the person required to attend;

8 (iii) take testimony on matters material to the
9 determination; and

10 (iv) administer oaths or affirmations;

11 (3) Pursuant to rules established by the department,
12 returns may be computer-generated;

13 (4) The statute of limitations for the sales tax on
14 coal is the same as the statute of limitations for the coal
15 severance tax as provided in 15-95-114;

16 (5) All sales tax revenue collected by the department
17 must be credited as follows:

18 (a) 12% of sales tax collections are allocated to the
19 highway reconstruction trust fund account in the state
20 special revenue fund;

21 (b) 7.6% to the state special revenue fund to the
22 credit of the education trust fund account;

23 (c) 6.65% to the credit of the local impact account;

24 (d) 3.8% to the state special revenue fund for state
25 equalization aid to public schools of the state;

1 {e)--0.38%--to--the--state--special-revenue-fund-to-the
2 credit-of-the-county-land-planning-account;

3 {f)--0.475%--to--the--credit--of--the--renewable--resource
4 development-bond-fund;

5 {g)--1.9%--to--a--nonexpendable--trust--fund--for--the--purpose
6 of--parks--acquisition--or--management,--protection--of--works--of
7 art--in--the--state--capitol,--and--other--cultural--and--aesthetic
8 projects,--income--from--this--trust--fund--must--be--appropriated
9 as--follows:

10 {i)--1/3--for--protection--of--works--of--art--in--the--state
11 capitol--and--other--cultural--and--aesthetic--projects,--and

12 {ii)--2/3--for--the--acquisition,--development,--operation,
13 and--maintenance--of--any--sites--and--areas--described--in
14 23-1-102;

15 {h)--0.38%--to--the--state--special-revenue-fund-to-the
16 credit-of-the-state-library-commission-for-the--purposes--of
17 providing--basic--library--services--for--the--residents--of--all
18 counties--through--library--federations--and--for--payment--of--the
19 costs--of--participating--in--regional--and--national--networking;

20 {i)--0.19%--to--the--state--special--revenue--fund--for
21 conservation-districts;

22 {j)--0.475%--to--the--debt--service--fund--type--to--the--credit
23 of--the--water--development--debt--service--fund;

24 {k)--0.76%--to--the--state--special-revenue-fund-for--the
25 Montana-Growth-Through-Agriculture-Act;

1 {i)--all--other--revenues--from--the--sales--tax--collected
2 under--the--provisions--of--{sections--1--through--10}--to--the
3 credit--of--the--general--fund--of--the--state;

4 NEW-SECTION. **Section 8.** Warrant for distraint. If
5 the tax imposed by {sections 1 through 10} or any portion of
6 the tax is not paid when due, the department may issue a
7 warrant for distraint as provided in Title 15, chapter 17
8 part 7.

9 NEW-SECTION. **Section 9.** Penalties. (1) The
10 department shall assess a penalty for delinquent sales tax.
11 The penalty is the same as the penalty for delinquent
12 severance tax on coal, as provided in 15-35-105, including
13 both penalty and interest.

14 {2) A person who fails, neglects, or refuses to file a
15 statement required under {sections 1 through 10} commits a
16 misdemeanor. A person convicted under this subsection shall
17 be fined not more than \$10,000 or be imprisoned in the
18 county jail for a term not to exceed 6 months, or both.

19 NEW-SECTION. **Section 10.** Rulemaking authority. The
20 department may adopt rules necessary for implementing and
21 administering the provisions of {sections 1 through 10}.

22 NEW SECTION. SECTION 2. DEFINITIONS. AS USED IN
23 [SECTIONS 1 THROUGH 18], THE FOLLOWING DEFINITIONS APPLY:

24 (1) "AGREEMENT" MEANS A SIGNED CONTRACT THAT IS VALID
25 UNDER MONTANA LAW BETWEEN A COAL MINE OPERATOR AND A

1 PURCHASER OR BROKER FOR THE SALE OF COAL THAT IS PRODUCED IN
2 MONTANA.

3 (2)(A) "BASE CONSUMPTION LEVEL" FOR A PURCHASER, EXCEPT
4 AS PROVIDED IN SUBSECTION (2)(B), APPLIES ONLY FOR THE TERM
5 OF AN AGREEMENT IN EFFECT AS OF DECEMBER 31, 1984, AND MEANS
6 THE LESSER OF:

7 (I) THE VOLUME OF COAL PURCHASED DURING CALENDAR YEAR
8 1986 FROM ALL MONTANA COAL MINE OPERATORS; OR

9 (II) THE GREATER OF:

10 (A) THE ARITHMETIC AVERAGE VOLUME OF COAL PURCHASED
11 DURING CALENDAR YEARS 1983 AND 1984 FROM ALL MONTANA COAL
12 MINE OPERATORS; OR

13 (B) 90% OF THE MAXIMUM TONNAGE PROVIDED FOR IN ANY
14 AGREEMENT EXECUTED PRIOR TO JANUARY 1, 1985, FOR WHICH THE
15 HIGHEST SCHEDULED MINIMUM QUANTITY OF COAL STIPULATED BY THE
16 TERMS OF THE AGREEMENT AS THEY EXISTED ON JANUARY 1, 1985,
17 HAS NOT BEEN PURCHASED AT ANY TIME DURING THE TERM OF THE
18 AGREEMENT, PLUS THE ARITHMETIC AVERAGE VOLUME OF COAL
19 PURCHASED DURING CALENDAR YEARS 1983 AND 1984 FROM ALL
20 MONTANA COAL MINE OPERATORS UNDER ALL OTHER AGREEMENTS.

21 (B) IF THE VOLUME CALCULATED IN SUBSECTION (2)(A)(I)
22 IS LESS THAN ONE-THIRD OF THE VOLUME CALCULATED IN
23 SUBSECTION (2)(A)(II), THE BASE CONSUMPTION LEVEL IS THE
24 VOLUME CALCULATED IN SUBSECTION (2)(A)(II).

25 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), "BASE

1 PRODUCTION LEVEL" FOR A COAL MINE OPERATOR APPLIES ONLY FOR
2 THE TERM OF AN AGREEMENT IN EFFECT AS OF DECEMBER 31, 1984,
3 AND MEANS THE LESSER OF:

4 (I) THE ARITHMETIC AVERAGE VOLUME OF COAL PRODUCED IN
5 MONTANA AND SOLD TO A PURCHASER IN CALENDAR YEARS 1983 AND
6 1984; OR

7 (II) THE VOLUME OF COAL PRODUCED IN MONTANA AND SOLD TO
8 A PURCHASER IN 1986.

9 (B) IF THE AMOUNT CALCULATED IN SUBSECTION (3)(A)(II)
10 IS LESS THAN ONE-THIRD OF THE AMOUNT CALCULATED IN
11 SUBSECTION (3)(A)(I), THE BASE PRODUCTION LEVEL IS THE
12 AMOUNT CALCULATED IN SUBSECTION (3)(A)(I).

13 (4) "BROKER" MEANS ANY PERSON WHO RESELLS MONTANA
14 COAL.

15 (5) "CONTRACT SALES PRICE" MEANS EITHER THE PRICE OF
16 COAL EXTRACTED AND PREPARED FOR SHIPMENT F.O.B. MINE,
17 EXCLUDING THAT AMOUNT CHARGED BY THE SELLER TO PAY TAXES
18 PAID ON PRODUCTION, OR A PRICE IMPUTED BY THE DEPARTMENT
19 UNDER [SECTION 6]. CONTRACT SALES PRICE INCLUDES ALL
20 ROYALTIES PAID ON PRODUCTION, NO MATTER HOW SUCH ROYALTIES
21 ARE CALCULATED. HOWEVER, WITH RESPECT TO ROYALTIES PAID TO
22 THE GOVERNMENT OF THE UNITED STATES, THE STATE OF MONTANA,
23 OR A FEDERALLY RECOGNIZED INDIAN TRIBE, THE CONTRACT SALES
24 PRICE INCLUDES ONLY:

25 (A) FOR QUARTERLY PERIODS ENDING ON AND AFTER

1 SEPTEMBER 30, 1984, 15 CENTS PER TON PLUS 75% OF THE
 2 DIFFERENCE BETWEEN 15 CENTS PER TON AND THE AMOUNT OF SUCH
 3 FEDERAL, STATE, AND TRIBAL GOVERNMENT ROYALTIES ACTUALLY
 4 PAID;

5 (B) FOR QUARTERLY PERIODS ENDING ON AND AFTER
 6 SEPTEMBER 30, 1985, 15 CENTS PER TON PLUS 50% OF THE
 7 DIFFERENCE BETWEEN 15 CENTS PER TON AND THE AMOUNT OF SUCH
 8 FEDERAL, STATE, AND TRIBAL GOVERNMENT ROYALTIES ACTUALLY
 9 PAID;

10 (C) FOR QUARTERLY PERIODS ENDING ON AND AFTER
 11 SEPTEMBER 30, 1986, 15 CENTS PER TON PLUS 25% OF THE
 12 DIFFERENCE BETWEEN 15 CENTS PER TON AND THE AMOUNT OF SUCH
 13 FEDERAL, STATE, AND TRIBAL GOVERNMENT ROYALTIES ACTUALLY
 14 PAID; AND

15 (D) FOR QUARTERLY PERIODS ENDING ON AND AFTER
 16 SEPTEMBER 30, 1987, 15 CENTS PER TON.

17 (6) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

18 (7) "ENERGY CONVERSION PROCESS" INCLUDES ANY PROCESS
 19 BY WHICH COAL IN THE SOLID STATE IS TRANSFORMED INTO SLURRY,
 20 GAS, ELECTRIC ENERGY, OR ANY OTHER FORM OF ENERGY.

21 (8) "INCREMENTAL PRODUCTION" MEANS THAT QUANTITY OF
 22 COAL PRODUCED ANNUALLY BY A COAL MINE OPERATOR AND SOLD TO A
 23 QUALIFIED PURCHASER THAT EXCEEDS THE BASE PRODUCTION LEVEL
 24 OF THE COAL MINE OPERATOR FOR THAT PURCHASER, BUT ONLY TO
 25 THE EXTENT THE QUANTITY OF COAL EXCEEDS THAT PURCHASER'S

1 BASE CONSUMPTION LEVEL FROM ALL MONTANA PRODUCERS.

2 (9) "PRODUCED" MEANS EXTRACTED FROM THE EARTH.

3 (10) "PURCHASER" MEANS A PERSON WHO PURCHASES OR
 4 CONTRACTS TO PURCHASE MONTANA COAL DIRECTLY FROM A COAL MINE
 5 OPERATOR OR INDIRECTLY FROM A BROKER AND WHO UTILIZES THAT
 6 COAL IN ANY INDUSTRIAL, COMMERCIAL, OR ENERGY CONVERSION
 7 PROCESS. A COAL BROKER OR ANY OTHER THIRD PARTY INTERMEDIARY
 8 IS NOT A PURCHASER UNDER THE PROVISIONS OF [SECTIONS 1
 9 THROUGH 18].

10 (11) "QUALIFIED PURCHASER" MEANS A PURCHASER WHOSE
 11 PURCHASES OF MONTANA COAL IN ANY GIVEN YEAR EXCEED HIS BASE
 12 CONSUMPTION LEVEL. A PURCHASER OF MONTANA COAL WHO ENTERS
 13 INTO A COAL AGREEMENT WITH ANOTHER PURCHASER OR A BROKER
 14 THAT CAUSES A REDUCTION IN THE BASE CONSUMPTION LEVEL OF A
 15 PURCHASER IS NOT A QUALIFIED PURCHASER.

16 (12) "STRIP MINING" IS DEFINED IN 82-4-203 AND INCLUDES
 17 "SURFACE MINING".

18 (13) "TAXES PAID ON PRODUCTION" INCLUDES ANY TAX PAID
 19 TO THE FEDERAL, STATE, OR LOCAL GOVERNMENTS UPON THE
 20 QUANTITY OF COAL PRODUCED AS A FUNCTION OF EITHER THE VOLUME
 21 OR THE VALUE OF PRODUCTION AND DOES NOT INCLUDE ANY TAX UPON
 22 THE VALUE OF MINING EQUIPMENT, MACHINERY, OR BUILDINGS AND
 23 LANDS, ANY TAX UPON A PERSON'S NET INCOME DERIVED IN WHOLE
 24 OR IN PART FROM THE SALE OF COAL, OR ANY LICENSE FEE.

25 (14) "TON" MEANS 2,000 POUNDS.

1 (15) "UNDERGROUND MINING" MEANS A COAL MINING METHOD
 2 UTILIZING SHAFTS AND TUNNELS AND AS FURTHER DEFINED IN
 3 82-4-203.

4 NEW SECTION. SECTION 3. QUARTERLY STATEMENT AND
 5 PAYMENT OF TAX. EACH COAL MINE OPERATOR SHALL COMPUTE THE
 6 PRIVILEGE TAX DUE ON EACH QUARTER-YEAR'S WORTH OF PRODUCTION
 7 ON FORMS PRESCRIBED BY THE DEPARTMENT. THE STATEMENT SHALL
 8 INDICATE THE TONNAGE PRODUCED, THE AVERAGE BTU VALUE OF THE
 9 PRODUCTION, THE CONTRACT SALES PRICE RECEIVED FOR THE
 10 PRODUCTION, AND SUCH OTHER INFORMATION AS THE DEPARTMENT MAY
 11 REQUIRE. EACH COAL MINE OPERATOR SHALL PROVIDE A STATEMENT
 12 OF THE TONS OF COAL SOLD TO EACH PURCHASER FOR THE QUARTER.
 13 THE COMPLETED FORM IN DUPLICATE, WITH THE TAX PAYMENT, MUST
 14 BE DELIVERED TO THE DEPARTMENT NOT LATER THAN 30 DAYS
 15 FOLLOWING THE CLOSE OF THE QUARTER. THE FORM MUST BE SIGNED
 16 BY THE OPERATOR IF THE OPERATOR IS AN INDIVIDUAL OR BY AN
 17 OFFICER OF THE COAL MINE OPERATOR IF THE OPERATOR IS A
 18 BUSINESS ENTITY. A PERSON OPERATING MORE THAN ONE COAL MINE
 19 IN THIS STATE MAY INCLUDE ALL OF HIS MINES IN ONE STATEMENT.
 20 THE DEPARTMENT MAY GRANT A REASONABLE EXTENSION OF TIME FOR
 21 FILING STATEMENTS AND PAYMENT OF TAXES DUE UPON GOOD CAUSE
 22 SHOWN THEREFOR.

23 NEW SECTION. SECTION 4. PENALTY FOR DELINQUENT TAX.
 24 THE DEPARTMENT SHALL ADD TO THE AMOUNT OF ALL DELINQUENT
 25 PRIVILEGE TAXES A PENALTY OF 10% OF THE DELINQUENT AMOUNT

1 PLUS INTEREST AT THE RATE OF 1% PER MONTH OR FRACTION
 2 THEREOF COMPUTED ON THE TOTAL AMOUNT OF PRIVILEGE TAX AND
 3 PENALTY. INTEREST MUST BE COMPUTED FROM THE DATE THE
 4 PRIVILEGE TAX WAS DUE TO THE DATE OF PAYMENT. THE DEPARTMENT
 5 SHALL MAIL TO THE PERSON REQUIRED TO FILE A QUARTERLY REPORT
 6 AND PAY ANY PRIVILEGE TAX, A LETTER SETTING FORTH THE AMOUNT
 7 OF TAX, PENALTY, AND INTEREST DUE, AND THE LETTER MUST
 8 FURTHER CONTAIN A STATEMENT THAT IF PAYMENT IS NOT MADE, A
 9 WARRANT FOR DISTRAINT MAY BE FILED. THE PENALTY AMOUNT MAY
 10 BE WAIVED BY THE DEPARTMENT IF REASONABLE CAUSE FOR THE
 11 FAILURE OR NEGLECT TO FILE THE QUARTERLY STATEMENT IS
 12 PROVIDED TO THE DEPARTMENT.

13 NEW SECTION. SECTION 5. ANNUAL TESTING OF SAMPLES.
 14 THE MONTANA STATE BUREAU OF MINES AND GEOLOGY SHALL TEST
 15 COAL PRODUCTION SUBJECT TO [SECTIONS 1 THROUGH 18] AND MAY
 16 MAKE RULES GOVERNING THE COLLECTION OF TEST DATA. A PERSON
 17 SUBJECT TO [SECTIONS 1 THROUGH 18] SHALL SUBMIT TO THE
 18 BUREAU ON OR BEFORE AUGUST 1 EACH YEAR A SAMPLE OF MINE-RUN,
 19 "AS IS" COAL FROM EACH MINE PRODUCING THAT YEAR. ADDITIONAL
 20 SAMPLES MUST BE SUBMITTED AT THE REQUEST OF THE BUREAU. THE
 21 BUREAU SHALL COMPUTE THE BTU PER POUND OF EACH SAMPLE
 22 RECEIVED AND FORWARD THIS INFORMATION TO THE DEPARTMENT
 23 PRIOR TO SEPTEMBER 1 EACH YEAR.

24 NEW SECTION. SECTION 6. WHEN VALUE OF COAL MAY BE
 25 IMPUTED -- PROCEDURE. (1) THE DEPARTMENT MAY OR SHALL AT

1 THE REQUEST OF THE TAXPAYER IMPUTE A VALUE TO THE COAL THAT
 2 APPROXIMATES MARKET VALUE F.O.B. MINE IN A CASE WHERE:

3 (A) THE OPERATOR OF A COAL MINE IS USING THE PRODUCED
 4 COAL IN AN ENERGY-CONVERSION OR OTHER MANUFACTURING PROCESS;

5 (B) THE OPERATOR OF A COAL MINE REFINES THE COAL BY
 6 DRYING, CLEANING, OR OTHER PROCESSING DESIGNED TO IMPROVE
 7 THE QUALITY OF THE COAL;

8 (C) A PERSON SELLS COAL UNDER A CONTRACT THAT IS NOT
 9 AN ARM'S-LENGTH AGREEMENT; OR

10 (D) A PERSON NEGLECTS OR REFUSES TO FILE A STATEMENT
 11 UNDER 15-23-701 OR A STATEMENT AND TAX RETURN UNDER
 12 [SECTIONS 1 THROUGH 18].

13 (2) FOR PURPOSES OF SUBSECTION (1)(B), "MARKET VALUE
 14 F.O.B. MINE" MEANS THE VALUE OF THE COAL SUBSEQUENT TO
 15 PRIMARY AND SECONDARY CRUSHING BUT PRIOR TO DRYING,
 16 CLEANING, OR OTHER PROCESSING.

17 (3) WHEN IMPUTING VALUE, THE DEPARTMENT MAY APPLY THE
 18 FACTORS USED BY THE FEDERAL GOVERNMENT UNDER 26 U.S.C.,
 19 SECTION 613, OR THAT PROVISION AS IT MAY BE LABELED OR
 20 AMENDED, IN DETERMINING GROSS INCOME FROM MINING OR THE
 21 DEPARTMENT MAY APPLY ANY OTHER OR ADDITIONAL CRITERIA IT
 22 CONSIDERS APPROPRIATE. EACH SUBJECT TAXPAYER SHALL UPON
 23 REQUEST BY THE DEPARTMENT FURNISH A COPY OF ITS FEDERAL
 24 INCOME TAX RETURN, WITH ANY AMENDMENTS, FILED FOR THE YEAR
 25 IN WHICH THE VALUE OF COAL IS BEING IMPUTED AND COPIES OF

1 THE CONTRACTS UNDER WHICH IT IS SELLING COAL AT THE TIME.
 2 WHEN THE DEPARTMENT'S ESTIMATE OF MARKET VALUE IS CONTESTED
 3 IN ANY PROCEEDING, THE BURDEN OF PROOF IS ON THE CONTESTING
 4 PARTY.

5 NEW SECTION. SECTION 7. DISPOSAL OF PRIVILEGE TAXES.

6 (1) PRIVILEGE TAXES COLLECTED UNDER [SECTIONS 1 THROUGH 12]
 7 MUST BE ALLOCATED ACCORDING TO THE PROVISIONS IN EFFECT ON
 8 THE DATE THE TAX IS DUE.

9 (2) PRIVILEGE TAXES COLLECTED UNDER THE PROVISIONS OF
 10 [SECTIONS 1 THROUGH 12] ARE ALLOCATED AS FOLLOWS:

11 (A) 12% TO THE HIGHWAY RECONSTRUCTION TRUST FUND
 12 ACCOUNT IN THE STATE SPECIAL REVENUE FUND;

13 (B) 7.6% TO THE STATE SPECIAL REVENUE FUND TO THE
 14 CREDIT OF THE EDUCATION TRUST FUND ACCOUNT;

15 (C) 6.65% TO THE CREDIT OF THE LOCAL IMPACT ACCOUNT;

16 (D) 3.8% TO THE STATE SPECIAL REVENUE FUND FOR STATE
 17 EQUALIZATION AID TO PUBLIC SCHOOLS OF THE STATE;

18 (E) 0.38% TO THE STATE SPECIAL REVENUE FUND TO THE
 19 CREDIT OF THE COUNTY LAND PLANNING ACCOUNT;

20 (F) 0.475% TO THE CREDIT OF THE RENEWABLE RESOURCE
 21 DEVELOPMENT BOND FUND;

22 (G) 1.9% TO A NONEXPENDABLE TRUST FUND FOR THE PURPOSE
 23 OF PARKS ACQUISITION OR MANAGEMENT, PROTECTION OF WORKS OF
 24 ART IN THE STATE CAPITOL, AND OTHER CULTURAL AND AESTHETIC
 25 PROJECTS. INCOME FROM THIS TRUST FUND MUST BE APPROPRIATED

1 AS FOLLOWS:

2 (I) ONE-THIRD FOR PROTECTION OF WORKS OF ART IN THE
3 STATE CAPITOL AND OTHER CULTURAL AND AESTHETIC PROJECTS; AND

4 (II) TWO-THIRDS FOR THE ACQUISITION, DEVELOPMENT,
5 OPERATION, AND MAINTENANCE OF ANY SITES AND AREAS DESCRIBED
6 IN 23-1-102;

7 (H) 0.38% TO THE STATE SPECIAL REVENUE FUND TO THE
8 CREDIT OF THE STATE LIBRARY COMMISSION FOR THE PURPOSES OF
9 PROVIDING BASIC LIBRARY SERVICES FOR THE RESIDENTS OF ALL
10 COUNTIES THROUGH LIBRARY FEDERATIONS AND FOR PAYMENT OF THE
11 COSTS OF PARTICIPATING IN REGIONAL AND NATIONAL NETWORKING;

12 (I) 0.19% TO THE STATE SPECIAL REVENUE FUND FOR
13 CONSERVATION DISTRICTS;

14 (J) 0.475% TO THE DEBT SERVICE FUND TYPE TO THE CREDIT
15 OF THE WATER DEVELOPMENT DEBT SERVICE FUND;

16 (K) 0.76% TO THE STATE SPECIAL REVENUE FUND FOR THE
17 MONTANA GROWTH THROUGH AGRICULTURE ACT;

18 (L) TO THE COAL PRIVILEGE TAX BOND FUND CREATED BY
19 [SECTION 17], 50% OF THE TOTAL PRIVILEGE TAX COLLECTIONS.
20 THE STATE TREASURER SHALL FROM TIME TO TIME TRANSFER TO THE
21 GENERAL FUND ALL MONEY IN THE COAL PRIVILEGE TAX BOND FUND
22 IN EXCESS OF THE AMOUNT NECESSARY TO MEET ALL PRINCIPAL AND
23 INTEREST PAYMENTS ON BONDS PAYABLE FROM THE COAL PRIVILEGE
24 TAX BOND FUND AND TO SATISFY THE REQUIREMENTS OF THE GENERAL
25 RESOLUTION PURSUANT TO WHICH THE BONDS WERE ISSUED.

1 (M) ALL OTHER REVENUES FROM PRIVILEGE TAXES COLLECTED
2 UNDER THE PROVISIONS OF [SECTIONS 1 THROUGH 12] TO THE
3 CREDIT OF THE GENERAL FUND OF THE STATE.

4 NEW SECTION. SECTION 9. DEFICIENCY ASSESSMENT --
5 HEARING -- INTEREST. (1) WHEN THE DEPARTMENT DETERMINES
6 THAT THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT
7 DISCLOSED BY A RETURN, IT SHALL MAIL TO THE TAXPAYER A
8 NOTICE OF THE ADDITIONAL TAX PROPOSED TO BE ASSESSED. WITHIN
9 30 DAYS AFTER MAILING OF THE NOTICE, THE TAXPAYER MAY FILE
10 WITH THE DEPARTMENT A WRITTEN PROTEST AGAINST THE PROPOSED
11 ADDITIONAL TAX, SETTING FORTH THE GROUNDS UPON WHICH THE
12 PROTEST IS BASED, AND MAY REQUEST IN HIS PROTEST AN ORAL
13 HEARING OR AN OPPORTUNITY TO PRESENT ADDITIONAL EVIDENCE
14 RELATING TO HIS TAX LIABILITY. IF NO PROTEST IS FILED, THE
15 AMOUNT OF THE ADDITIONAL TAX PROPOSED TO BE ASSESSED BECOMES
16 FINAL UPON THE EXPIRATION OF THE 30-DAY PERIOD. IF A PROTEST
17 IS FILED, THE DEPARTMENT SHALL RECONSIDER THE PROPOSED
18 ASSESSMENT AND, IF THE TAXPAYER HAS SO REQUESTED, SHALL
19 GRANT THE TAXPAYER AN ORAL HEARING. AFTER CONSIDERATION OF
20 THE PROTEST AND THE EVIDENCE PRESENTED AT ANY ORAL HEARING,
21 THE DEPARTMENT'S ACTION UPON THE PROTEST IS FINAL WHEN IT
22 MAILS NOTICE OF ITS ACTION TO THE TAXPAYER.

23 (2) WHEN A DEFICIENCY IS DETERMINED AND THE TAX
24 BECOMES FINAL, THE DEPARTMENT SHALL MAIL A NOTICE AND DEMAND
25 FOR PAYMENT TO THE TAXPAYER. THE TAX IS DUE AND PAYABLE AT

1 THE EXPIRATION OF 10 DAYS FROM THE DATE OF THE NOTICE AND
 2 DEMAND. INTEREST ON ANY DEFICIENCY ASSESSMENT BEARS INTEREST
 3 UNTIL PAID AT THE RATE OF 1% A MONTH OR FRACTION THEREOF,
 4 COMPUTED FROM THE ORIGINAL DUE DATE OF THE RETURN.

5 NEW SECTION. SECTION 10. CREDIT FOR OVERPAYMENT --
 6 INTEREST ON OVERPAYMENT. (1) IF THE DEPARTMENT DETERMINES
 7 THAT THE AMOUNT OF TAX, PENALTY, OR INTEREST DUE FOR ANY
 8 YEAR IS LESS THAN THE AMOUNT PAID, THE AMOUNT OF THE
 9 OVERPAYMENT MUST BE CREDITED AGAINST ANY TAX, PENALTY, OR
 10 INTEREST THEN DUE FROM THE TAXPAYER AND THE BALANCE REFUNDED
 11 TO THE TAXPAYER OR ITS SUCCESSOR THROUGH REORGANIZATION,
 12 MERGER, OR CONSOLIDATION OR TO ITS SHAREHOLDERS UPON
 13 DISSOLUTION.

14 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), INTEREST
 15 MUST BE ALLOWED ON OVERPAYMENTS AT THE SAME RATE AS IS
 16 CHARGED ON DEFICIENCY ASSESSMENTS PROVIDED IN [SECTION 8]
 17 DUE FROM THE DUE DATE OF THE RETURN OR FROM THE DATE OF
 18 OVERPAYMENT (WHICHEVER DATE IS LATER) TO THE DATE THE
 19 DEPARTMENT APPROVES REFUNDING OR CREDITING OF THE
 20 OVERPAYMENT.

21 (3) (A) INTEREST MAY NOT ACCRUE DURING ANY PERIOD THE
 22 PROCESSING OF A CLAIM FOR REFUND IS DELAYED MORE THAN 30
 23 DAYS BY REASON OF FAILURE OF THE TAXPAYER TO FURNISH
 24 INFORMATION REQUESTED BY THE DEPARTMENT FOR THE PURPOSE OF
 25 VERIFYING THE AMOUNT OF THE OVERPAYMENT.

1 (B) NO INTEREST MAY BE ALLOWED:

2 (I) IF THE OVERPAYMENT IS REFUNDED WITHIN 6 MONTHS
 3 FROM THE DATE THE RETURN IS DUE OR FROM THE DATE THE RETURN
 4 IS FILED, WHICHEVER IS LATER; OR

5 (II) IF THE AMOUNT OF INTEREST IS LESS THAN \$1.

6 (C) A PAYMENT NOT MADE INCIDENT TO A BONA FIDE AND
 7 ORDERLY DISCHARGE OF AN ACTUAL TAX LIABILITY OR ONE
 8 REASONABLY ASSUMED TO BE IMPOSED BY THIS LAW MAY NOT BE
 9 CONSIDERED AN OVERPAYMENT WITH RESPECT TO WHICH INTEREST IS
 10 ALLOWABLE.

11 NEW SECTION. SECTION 11. STATUTE OF LIMITATIONS. (1)
 12 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, NO DEFICIENCY
 13 MAY BE ASSESSED OR COLLECTED WITH RESPECT TO THE YEAR FOR
 14 WHICH A RETURN IS FILED UNLESS THE NOTICE OF ADDITIONAL TAX
 15 PROPOSED TO BE ASSESSED IS MAILED WITHIN 5 YEARS FROM THE
 16 DATE THE RETURN WAS FILED. FOR THE PURPOSES OF THIS SECTION,
 17 A RETURN FILED BEFORE THE LAST DAY PRESCRIBED FOR FILING IS
 18 CONSIDERED AS FILED ON THE LAST DAY. IF THE TAXPAYER, BEFORE
 19 THE EXPIRATION OF THE PERIOD PRESCRIBED FOR ASSESSMENT OF
 20 THE TAX, CONSENTS IN WRITING TO AN ASSESSMENT AFTER THAT
 21 TIME, THE TAX MAY BE ASSESSED AT ANY TIME PRIOR TO THE
 22 EXPIRATION OF THE PERIOD AGREED UPON.

23 (2) NO REFUND OR CREDIT MAY BE ALLOWED OR PAID WITH
 24 RESPECT TO THE YEAR FOR WHICH A RETURN IS FILED AFTER 5
 25 YEARS FROM THE LAST DAY PRESCRIBED FOR FILING THE RETURN OR

1 AFTER 1 YEAR FROM THE DATE OF THE OVERPAYMENT, WHICHEVER
 2 PERIOD EXPIRES LATER, UNLESS BEFORE THE EXPIRATION OF THE
 3 PERIOD THE TAXPAYER FILES A CLAIM THEREFOR OR THE DEPARTMENT
 4 HAS DETERMINED THE EXISTENCE OF THE OVERPAYMENT AND HAS
 5 APPROVED THE REFUND OR CREDIT THEREOF. IF THE TAXPAYER HAS
 6 AGREED IN WRITING UNDER THE PROVISIONS OF SUBSECTION (1) TO
 7 EXTEND THE TIME WITHIN WHICH THE DEPARTMENT MAY PROPOSE AN
 8 ADDITIONAL ASSESSMENT, THE PERIOD WITHIN WHICH A CLAIM FOR
 9 REFUND OR CREDIT MAY BE FILED OR A CREDIT OR REFUND ALLOWED
 10 IF NO CLAIM IS FILED IS AUTOMATICALLY EXTENDED.

11 (3) IF A RETURN IS REQUIRED TO BE FILED AND THE
 12 TAXPAYER FAILS TO FILE THE RETURN, THE TAX MAY BE ASSESSED
 13 OR AN ACTION TO COLLECT THE TAX MAY BE BROUGHT AT ANY TIME.
 14 IF A RETURN IS REQUIRED TO BE FILED AND THE TAXPAYER FILES A
 15 FRAUDULENT RETURN, THE 5-YEAR PERIOD PROVIDED FOR IN
 16 SUBSECTION (1) DOES NOT BEGIN UNTIL DISCOVERY OF THE FRAUD
 17 BY THE DEPARTMENT.

18 NEW SECTION. SECTION 11. PENALTIES FOR NEGLIGENCE OR
 19 FALSE STATEMENT. A PERSON WHO FAILS, NEGLECTS, OR REFUSES
 20 TO FILE ANY STATEMENT REQUIRED UNDER [SECTIONS 1 THROUGH 18]
 21 OR WHO MAKES A FALSE STATEMENT COMMITS A MISDEMEANOR. A
 22 PERSON CONVICTED UNDER THIS SECTION SHALL BE FINED NOT TO
 23 EXCEED \$1,000 OR BE IMPRISONED IN THE COUNTY JAIL FOR ANY
 24 TERM NOT TO EXCEED 6 MONTHS, OR BOTH.

25 NEW SECTION. SECTION 12. RULEMAKING AUTHORITY. THE

1 DEPARTMENT MAY ADOPT RULES NECESSARY FOR THE TAXATION OF
 2 PROPERTY UNDER [SECTIONS 1 THROUGH 18].

3 NEW SECTION. SECTION 13. NEW COAL PRODUCTION
 4 INCENTIVE TAX CREDIT ALLOWED -- APPLICATION LIMITED. (1) A
 5 COAL MINE OPERATOR IS ENTITLED TO A NEW COAL PRODUCTION
 6 INCENTIVE TAX CREDIT AGAINST THE TAX IMPOSED UNDER [SECTION
 7 1] OF:

8 (A) 40% FOR INCREMENTAL PRODUCTION SOLD AFTER JUNE 30,
 9 1988, AND BEFORE JULY 1, 1990; AND

10 (B) 25% FOR INCREMENTAL PRODUCTION SOLD AFTER JUNE 30,
 11 1990, AND BEFORE JULY 1, 1991.

12 (2) A COAL MINE OPERATOR IS ENTITLED TO A NEW COAL
 13 PRODUCTION INCENTIVE TAX CREDIT AGAINST THE TAX IMPOSED
 14 UNDER [SECTION 1] ON INCREMENTAL PRODUCTION FOR THE ENTIRE
 15 TERM OF AN AGREEMENT, EXCEPT AS PROVIDED IN SUBSECTION (3),
 16 AND IS ENTITLED TO ADJUSTMENT OF THE BASE CONSUMPTION LEVEL
 17 AND THE BASE PRODUCTION LEVEL, AS DEFINED IN [SECTION 2], IF
 18 THE INCREMENTAL PRODUCTION RESULTED FROM COAL PURCHASES
 19 UNDER:

20 (A) AN EXISTING AGREEMENT THAT WAS EXTENDED AFTER
 21 DECEMBER 31, 1984, AND BEFORE JULY 1, 1991, FOR AT LEAST A
 22 5-YEAR PERIOD; OR

23 (B) A NEW AGREEMENT THAT WAS EXECUTED AFTER DECEMBER
 24 31, 1984, AND BEFORE JULY 1, 1991.

25 (3) NO CREDIT MAY BE CLAIMED FOR COAL PRODUCED PRIOR

1 TO JANUARY 1, 1985.

2 NEW SECTION. SECTION 14. CALCULATION AND APPLICATION
 3 OF CREDIT. (1) THE AMOUNT OF NEW COAL PRODUCTION INCENTIVE
 4 TAX CREDIT THAT A COAL MINE OPERATOR MAY CLAIM AGAINST THE
 5 TAX IMPOSED IN [SECTION 1] IS CALCULATED BY:

6 (A) DETERMINING THE INCREMENTAL PRODUCTION FOR EACH OF
 7 HIS QUALIFIED PURCHASERS THAT WAS PRODUCED DURING A CALENDAR
 8 YEAR;

9 (B) DISTRIBUTING THE INCREMENTAL PRODUCTION AMONG THE
 10 QUARTERS IN THE CALENDAR YEAR IN THE SAME PROPORTION AS THE
 11 TOTAL VOLUME OF COAL SOLD EACH QUARTER TO EACH RESPECTIVE
 12 PURCHASER AND SUMMING THE AMOUNTS FOR ALL PURCHASERS TO
 13 DETERMINE THE COAL MINE OPERATOR'S INCREMENTAL PRODUCTION
 14 FOR EACH QUARTER;

15 (C) DETERMINING THE ARITHMETIC AVERAGE PRIVILEGE TAX
 16 PER TON CALCULATED PRIOR TO APPLICATION OF THE CREDIT ON
 17 COAL SOLD TO EACH QUALIFIED PURCHASER EACH QUARTER DURING
 18 THE CALENDAR YEAR;

19 (D) MULTIPLYING THE INCREMENTAL PRODUCTION FOR A
 20 QUARTER FOR A PURCHASER BY THE AVERAGE PRIVILEGE TAX PER TON
 21 FOR THAT PURCHASER AND MULTIPLYING THE TOTAL BY THE
 22 APPROPRIATE PERCENTAGE AS PROVIDED IN [SECTION 13] FOR EACH
 23 QUARTER; AND

24 (E) TOTALING THE AMOUNT SO CALCULATED FOR ALL
 25 QUALIFIED PURCHASERS FOR ALL FOUR QUARTERS OF THE CALENDAR

1 YEAR.

2 (2) WHEN FILING THE QUARTERLY STATEMENT REQUIRED IN
 3 [SECTION 3], A COAL MINE OPERATOR MAY CLAIM AGAINST THE COAL
 4 PRIVILEGE TAX CALCULATED FOR THAT QUARTER AN AMOUNT EQUAL TO
 5 25% OF THE NEW COAL PRODUCTION INCENTIVE TAX CREDIT ALLOWED
 6 ON INCREMENTAL PRODUCTION THAT OCCURRED DURING THE PREVIOUS
 7 CALENDAR YEAR.

8 (3) IF IN ANY CALENDAR YEAR A PURCHASER EXCEEDS HIS
 9 BASE CONSUMPTION LEVEL AND HE HAS PURCHASED FROM MORE THAN
 10 ONE MONTANA COAL MINE OPERATOR DURING THE YEAR, THE CREDIT
 11 ON THE INCREMENTAL PRODUCTION MUST BE DIVIDED AMONG THE
 12 OPERATORS ON A PRO RATA BASIS. TO DETERMINE EACH COAL MINE
 13 OPERATOR'S PRO RATA SHARE OF THE TAX CREDIT, EACH OPERATOR
 14 SHALL DIVIDE HIS INCREMENTAL PRODUCTION BY THE SUM OF ALL
 15 COAL MINE OPERATORS' INCREMENTAL PRODUCTION FOR THAT
 16 PURCHASER AND MULTIPLY THE QUOTIENT BY THE PURCHASES IN
 17 EXCESS OF THE BASE CONSUMPTION LEVEL FOR THAT PURCHASER.

18 (4) NEITHER A COAL MINE OPERATOR NOR A PURCHASER IS
 19 ENTITLED TO A DIRECT PAYMENT FOR THE CREDIT ALLOWED IN
 20 [SECTION 13]. A CREDIT TERMINATES IF NOT TAKEN DURING THE
 21 YEAR FOLLOWING THE YEAR IN WHICH THE INCREMENTAL PRODUCTION
 22 OCCURRED.

23 (5) EACH COAL MINE OPERATOR SHALL REDUCE THE DELIVERED
 24 PRICE OF COAL SOLD TO EACH QUALIFIED PURCHASER BY AN AMOUNT
 25 EQUAL TO THE CREDIT RECEIVED ON INCREMENTAL PRODUCTION SOLD

1 TO THAT PURCHASER.

2 NEW SECTION. SECTION 15. REPORTING REQUIREMENTS FOR

3 CREDIT -- DUTY OF DEPARTMENT. (1) EVERY MONTANA COAL MINE

4 OPERATOR SHALL PROVIDE TO THE DEPARTMENT:

5 (A) ON OR BEFORE SEPTEMBER 30, 1989, A LIST SHOWING

6 THE AMOUNT OF COAL PRODUCED AND SOLD IN CALENDAR YEARS 1983

7 AND 1984 TO EVERY PURCHASER, INCLUDING PURCHASERS WHO

8 OBTAINED COAL FROM THE COAL MINE OPERATOR THROUGH A BROKER;

9 AND

10 (B) WITH THE QUARTERLY STATEMENT REQUIRED BY [SECTION

11 3], A LIST OF THE NUMBER OF TONS PRODUCED AND SOLD TO EVERY

12 PURCHASER DURING THE QUARTER AND THE PRIVILEGE TAX

13 CALCULATED PRIOR TO THE APPLICATION OF THE CREDIT ON THESE

14 TONS.

15 (2) TO BE ELIGIBLE FOR THE TAX CREDIT PROVIDED FOR IN

16 [SECTION 13], A COAL MINE OPERATOR SHALL FURNISH TO THE

17 DEPARTMENT:

18 (A) ON OR BEFORE SEPTEMBER 30, 1989, COPIES OF ALL

19 EXISTING COAL SALES AGREEMENTS;

20 (B) WITH THE QUARTERLY STATEMENT REQUIRED BY [SECTION

21 3], A COPY OF ANY NEW COAL SALES AGREEMENTS OR EXTENSIONS OF

22 EXISTING AGREEMENTS EXECUTED DURING THE QUARTER;

23 (C) ON OR BEFORE JANUARY 31 OF EACH YEAR:

24 (I) A LIST OF INCREMENTAL PRODUCTION FOR ALL QUALIFIED

25 PURCHASERS DURING THE PREVIOUS CALENDAR YEAR;

1 (II) A WRITTEN STATEMENT FROM EACH QUALIFIED PURCHASER

2 VERIFYING THE VOLUME OF COAL PURCHASED IN THAT YEAR FROM ALL

3 MONTANA COAL MINE OPERATORS; AND

4 (III) THE NECESSARY INFORMATION ON INCREMENTAL

5 PRODUCTION PURCHASED THROUGH A BROKER TO VERIFY THAT THE

6 INCREMENTAL PRODUCTION DID NOT CAUSE A REDUCTION IN THE BASE

7 CONSUMPTION LEVEL OF ANY OTHER PURCHASER OF MONTANA COAL;

8 AND

9 (D) ANY OTHER DATA, REPORTS, EVIDENCE, OR PRODUCTION

10 DATA THAT MAY BE NECESSARY FOR THE DEPARTMENT TO DETERMINE

11 WHETHER A PURCHASER IS A QUALIFIED PURCHASER AND THE BASE

12 CONSUMPTION LEVEL FOR EACH PURCHASER.

13 (3) BY JANUARY 1, 1990, THE DEPARTMENT SHALL PREPARE

14 AND PUBLISH FOR INFORMATIONAL PURPOSES ONLY AN UNAUDITED

15 COMPILATION OF THE BASE PRODUCTION LEVEL FOR EACH COAL MINE

16 OPERATOR AND A COMPILATION OF THE BASE CONSUMPTION LEVEL FOR

17 EACH PURCHASER.

18 (4) ANY COAL MINE OPERATOR OR PURCHASER MAY, FOR THE

19 PURPOSE OF DETERMINING THE ELIGIBILITY OF COAL PRODUCTION

20 FOR THE NEW PRODUCTION INCENTIVE TAX CREDIT, FILE WITH THE

21 DEPARTMENT A PETITION FOR A DECLARATORY RULING AS PROVIDED

22 IN 2-4-501. THE DEPARTMENT SHALL ISSUE A RULING ON THE

23 PETITION WITHIN 90 DAYS OF THE DATE THE PETITION WAS FILED

24 WITH THE DEPARTMENT.

25 NEW SECTION. SECTION 16. RETURNS AND TAXPAYER

INFORMATION OPEN TO PUBLIC INSPECTION -- CERTAIN EXCEPTIONS.

(1) ALL INFORMATION FILED WITH THE DEPARTMENT IN ACCORDANCE WITH [SECTION 15] IS PUBLIC RECORD AND OPEN TO PUBLIC INSPECTION, EXCEPT THE INFORMATION REQUIRED UNDER [SECTION 15(1)(B)] AND THE COAL SALES AGREEMENTS SPECIFIED IN [SECTION 15(2)(A) AND (2)(B)].

(2) EXCEPT DURING PROCEEDINGS BEFORE THE STATE TAX APPEAL BOARD PURSUANT TO 15-2-201, THE INFORMATION REQUIRED UNDER [SECTION 15(1)(B)] AND THE COAL SALES AGREEMENTS SPECIFIED IN [SECTION 15(2)(A) AND (2)(B)] ARE OPEN TO INSPECTION ONLY UPON THE ORDER OF THE GOVERNOR, UNDER RULES TO BE PRESCRIBED BY THE DEPARTMENT, OR UPON ORDER OF A COURT OF COMPETENT JURISDICTION.

NEW SECTION. SECTION 17. CREATION OF COAL PRIVILEGE TAX BOND FUND -- PLEDGE OF TAX -- AUTHORIZATION OF COAL PRIVILEGE TAX BONDS. (1) THERE IS A COAL PRIVILEGE TAX BOND FUND IN WHICH MUST BE DEPOSITED THE AMOUNT SET FORTH IN [SECTION 7(2)(L)].

(2) THE MONEY DEPOSITED IN THE COAL PRIVILEGE TAX BOND FUND IS PLEDGED TO AND SECURES THE PAYMENT OF PRINCIPAL OF AND INTEREST ON ALL STATE OF MONTANA COAL SEVERANCE TAX BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 7, AND COAL PRIVILEGE TAX BONDS AUTHORIZED BY THIS SECTION.

(3) THE BOARD OF EXAMINERS, UPON APPROVAL OF THE LEGISLATURE AS PROVIDED IN TITLE 17, CHAPTER 5, PART 7, MAY

ISSUE AND SELL COAL PRIVILEGE TAX BONDS FOR THE PURPOSES AND SUBJECT TO THE TERMS AND CONDITIONS FOR THE ISSUANCE OF COAL SEVERANCE TAX BONDS SET FORTH IN TITLE 17, CHAPTER 5, PART 7.

(4) ALL BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 7, AFTER [THE EFFECTIVE DATE OF THIS SECTION], INCLUDING THOSE BONDS AUTHORIZED TO BE ISSUED BY HOUSE BILL 778, LAWS OF 1989, ARE CALLED "STATE OF MONTANA COAL PRIVILEGE TAX BONDS", AND THE MONEY IN THE COAL PRIVILEGE TAX BOND FUND IS PLEDGED TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS.

(5) FOR THE PURPOSES OF TITLE 17, CHAPTER 5, PART 7, DEPOSITS INTO THE COAL PRIVILEGE TAX BOND FUND MUST BE TREATED AS DEPOSITS INTO THE COAL SEVERANCE TAX BOND FUND.

NEW SECTION. SECTION 18. CONTINUED TAX DEPOSIT. THE LEGISLATURE SHALL PROVIDE FOR THE CONTINUED ASSESSMENT, LEVY, AND COLLECTION OF THE PRIVILEGE TAX AND FOR THE DEPOSIT OF THAT REVENUE INTO THE COAL PRIVILEGE TAX BOND FUND THAT, TOGETHER WITH OTHER REVENUE, ASSETS, AND MONEY AS MAY BE DEPOSITED TO ONE OR MORE SPECIAL BOND FUNDS PLEDGED FOR THE BENEFIT OF THE COAL SEVERANCE TAX BONDS OR THE COAL PRIVILEGE TAX BONDS, WILL BE SUFFICIENT TO PRODUCE AN AMOUNT THAT IS NECESSARY TO PAY, WHEN DUE, THE ANNUAL DEBT SERVICE CHARGES ON ALL OUTSTANDING BONDS PAYABLE FROM THE COAL PRIVILEGE TAX BOND FUND.

1 **Section 19.** Section 7-1-2111, MCA, is amended to read:

2 "7-1-2111. Classification of counties. (1) For the
3 purpose of regulating the compensation and salaries of all
4 county officers, not otherwise provided for, and for fixing
5 the penalties of officers' bonds, the several counties of
6 this state shall be classified according to that percentage
7 of the true and full valuation of the property therein upon
8 which the tax levy is made, except for vehicles subject to
9 taxation under 61-3-504(2), as follows:

10 (a) first class--all counties having such a taxable
11 valuation of \$50 million or over;

12 (b) second class--all counties having such a taxable
13 valuation of more than \$30 million and less than \$50
14 million;

15 (c) third class--all counties having such a taxable
16 valuation of more than \$20 million and less than \$30
17 million;

18 (d) fourth class--all counties having such a taxable
19 valuation of more than \$15 million and less than \$20
20 million;

21 (e) fifth class--all counties having such a taxable
22 valuation of more than \$10 million and less than \$15
23 million;

24 (f) sixth class--all counties having such a taxable
25 valuation of more than \$5 million and less than \$10 million;

1 (g) seventh class--all counties having such a taxable
2 valuation of less than \$5 million.

3 (2) As used in this section, taxable valuation means
4 the taxable value of taxable property in the county as of
5 the time of determination plus:

6 (a) that portion of the taxable value of the county on
7 December 31, 1981, attributable to automobiles and trucks
8 having a rated capacity of three-quarters of a ton or less;

9 (b) that portion of the taxable value of the county on
10 December 31, 1989, attributable to automobiles and trucks
11 having a rated capacity of more than three-quarters of a ton
12 but less than or equal to 1 ton;

13 (c) the amount of interim production and new
14 production taxes levied, as provided in 15-23-607, divided
15 by the appropriate tax rates described in 15-23-607(2)(a) or
16 (2)(b) and multiplied by 60%; and

17 (d) the amount of value represented by new production
18 exempted from tax as provided in 15-23-612; and

19 (e) 8.3% 6% of the total taxable value of the county
20 on December 31, 1990."

21 **Section 20.** Section 7-3-1321, MCA, is amended to read:

22 "7-3-1321. Authorization to incur indebtedness --
23 limitation. (1) The consolidated municipality may borrow
24 money or issue bonds for any municipal purpose to the extent
25 and in the manner provided by the constitution and laws of

1 Montana for the borrowing of money or issuing of bonds by
2 counties and cities and towns.

3 (2) The municipality may not become indebted in any
4 manner or for any purpose to an amount, including existing
5 indebtedness, in the aggregate exceeding ~~20% 30.5%~~ 29.8% of
6 the taxable value of the taxable property therein, as
7 ascertained by the last assessment for state and county
8 taxes prior to incurring such indebtedness. All warrants,
9 bonds, or obligations in excess of such amount given by or
10 on behalf of the municipality shall be void."

11 **Section 21.** Section 7-6-2211, MCA, is amended to read:

12 "7-6-2211. Authorization to conduct county business on
13 a cash basis. (1) In case the total indebtedness of a
14 county, lawful when incurred, exceeds the limit of ~~23%~~ 25%
15 24.5% established in 7-7-2101 by reason of great diminution
16 of taxable value, the county may conduct its business
17 affairs on a cash basis and pay the reasonable and necessary
18 current expenses of the county out of the cash in the county
19 treasury derived from its current revenue and under such
20 restrictions and regulations as may be imposed by the board
21 of county commissioners of the county by a resolution duly
22 adopted and included in the minutes of the board.

23 (2) Nothing in this section restricts the right of the
24 board to make the necessary tax levies for interest and
25 sinking fund purposes, and nothing in this section affects

1 the right of any creditor of the county to pursue any remedy
2 now given him by law to obtain payment of his claim."

3 **Section 22.** Section 7-6-4121, MCA, is amended to read:

4 "7-6-4121. Authorization to conduct municipal business
5 on a cash basis. (1) In case the total indebtedness of a
6 city or town has reached ~~17%~~ 18.5% 18.1% of the total
7 taxable value of the property of the city or town subject to
8 taxation, as ascertained by the last assessment for state
9 and county taxes, the city or town may conduct its affairs
10 and business on a cash basis as provided by subsection (2).

11 (2) (a) Whenever a city or town is conducting its
12 business affairs on a cash basis, the reasonable and
13 necessary current expenses of the city or town may be paid
14 out of the cash in the city or town treasury and derived
15 from its current revenues, under such restrictions and
16 regulations as the city or town council may by ordinance
17 prescribe.

18 (b) In the event that payment is made in advance, the
19 city or town may require a cash deposit as collateral
20 security and indemnity, equal in amount to such payment, and
21 may hold the same as a special deposit with the city
22 treasurer or town clerk, in package form, as a pledge for
23 the fulfillment and performance of the contract or
24 obligation for which the advance is made.

25 (c) Before the payment of the current expenses

1 mentioned above, the city or town council shall first set
 2 apart sufficient money to pay the interest upon its legal,
 3 valid, and outstanding bonded indebtedness and any sinking
 4 funds therein provided for and shall be authorized to pay
 5 all valid claims against funds raised by tax especially
 6 authorized by law for the purpose of paying such claims."

7 **Section 23.** Section 7-6-4254, MCA, is amended to read:

8 "7-6-4254. Limitation on amount of emergency budgets
 9 and appropriations. (1) The total of all emergency budgets
 10 and appropriations made therein in any one year and to be
 11 paid from any city fund may not exceed 30% ~~40.5%~~ 39.6% of
 12 the total amount which could be produced for such city fund
 13 by a maximum levy authorized by law to be made for such
 14 fund, as shown by the last completed assessment roll of the
 15 county.

16 (2) The term "taxable property", as used herein, means
 17 the percentage of the value at which such property is
 18 assessed and which percentage is used for the purposes of
 19 computing taxes and does not mean the assessed value of such
 20 property as the same appears on the assessment roll."

21 **Section 24.** Section 7-7-107, MCA, is amended to read:

22 "7-7-107. Limitation on amount of bonds for
 23 city-county consolidated units. (1) Except as provided in
 24 7-7-108, no city-county consolidated local government may
 25 issue bonds for any purpose which, with all outstanding

1 indebtedness, may exceed 39% ~~42.5%~~ 41.5% of the taxable
 2 value of the property therein subject to taxation as
 3 ascertained by the last assessment for state and county
 4 taxes.

5 (2) The issuing of bonds for the purpose of funding or
 6 refunding outstanding warrants or bonds is not the incurring
 7 of a new or additional indebtedness but is merely the
 8 changing of the evidence of outstanding indebtedness."

9 **Section 25.** Section 7-7-108, MCA, is amended to read:

10 "7-7-108. Authorization for additional indebtedness
 11 for water or sewer systems. (1) For the purpose of
 12 constructing a sewer system or procuring a water supply or
 13 constructing or acquiring a water system for a city-county
 14 consolidated government which shall own and control such
 15 water supply and water system and devote the revenues
 16 therefrom to the payment of the debt, a city-county
 17 consolidated government may incur an additional indebtedness
 18 by borrowing money or issuing bonds.

19 (2) The additional indebtedness which may be incurred
 20 by borrowing money or issuing bonds for the construction of
 21 a sewer system or for the procurement of a water supply or
 22 for both such purposes may not in the aggregate exceed 10%
 23 over and above the 39% ~~42.5%~~ 41.5% referred to in 7-7-107 of
 24 the taxable value of the property therein subject to
 25 taxation as ascertained by the last assessment for state and

1 county taxes."

2 **Section 26.** Section 7-7-2101, MCA, is amended to read:

3 "7-7-2101. Limitation on amount of county
4 indebtedness. (1) No county may become indebted in any
5 manner or for any purpose to an amount, including existing
6 indebtedness, in the aggregate exceeding ~~23%~~ 25% 24.5% of
7 the total of the taxable value of the property therein
8 subject to taxation, plus the amount of interim production
9 and new production taxes levied divided by the appropriate
10 tax rates described in 15-23-607(2)(a) or (2)(b) and
11 multiplied by 60%, plus the amount of value represented by
12 new production exempted from tax as provided in 15-23-612,
13 as ascertained by the last assessment for state and county
14 taxes previous to the incurring of such indebtedness.

15 (2) No county may incur indebtedness or liability for
16 any single purpose to an amount exceeding \$500,000 without
17 the approval of a majority of the electors thereof voting at
18 an election to be provided by law, except as provided in
19 7-21-3413 and 7-21-3414.

20 (3) Nothing in this section shall apply to the
21 acquisition of conservation easements as set forth in Title
22 76, chapter 6."

23 **Section 27.** Section 7-7-2203, MCA, is amended to read:

24 "7-7-2203. Limitation on amount of bonded
25 indebtedness. (1) Except as provided in subsections (2)

1 through (4), no county may issue general obligation bonds
2 for any purpose which, with all outstanding bonds and
3 warrants except county high school bonds and emergency
4 bonds, will exceed ~~11-25%~~ 12-25% 12% of the total of the
5 taxable value of the property therein, plus the amount of
6 interim production and new production taxes levied divided
7 by the appropriate tax rates described in 15-23-607(2)(a) or
8 (2)(b) and multiplied by 60%, plus the amount of value
9 represented by new production exempted from tax as provided
10 in 15-23-612, to be ascertained by the last assessment for
11 state and county taxes prior to the proposed issuance of
12 bonds.

13 (2) In addition to the bonds allowed by subsection
14 (1), a county may issue bonds which, with all outstanding
15 bonds and warrants, will not exceed ~~27-75%~~ 30-25% 29.5% of
16 the total of the taxable value of the property in the county
17 subject to taxation, plus the amount of interim production
18 and new production taxes levied divided by the appropriate
19 tax rates described in 15-23-607(2)(a) or (2)(b) and
20 multiplied by 60%, plus the amount of value represented by
21 new production exempted from tax as provided in 15-23-612,
22 when necessary to do so, for the purpose of acquiring land
23 for a site for county high school buildings and for erecting
24 or acquiring buildings thereon and furnishing and equipping
25 the same for county high school purposes.

1 (3) In addition to the bonds allowed by subsections
 2 (1) and (2), a county may issue bonds for the construction
 3 or improvement of a jail which will not exceed ~~12.5%~~ 13.5%
 4 13.3% of the taxable value of the property in the county
 5 subject to taxation.

6 (4) The limitation in subsection (1) does not apply to
 7 refunding bonds issued for the purpose of paying or retiring
 8 county bonds lawfully issued prior to January 1, 1932, or to
 9 bonds issued for the repayment of tax protests lost by the
 10 county."

11 **Section 28.** Section 7-7-4201, MCA, is amended to read:

12 "7-7-4201. Limitation on amount of bonded
 13 indebtedness. (1) Except as otherwise provided, no city or
 14 town may issue bonds or incur other indebtedness for any
 15 purpose in an amount which with all outstanding and unpaid
 16 indebtedness will exceed ~~20%~~ 30.5% 29.8% of the taxable
 17 value of the property therein subject to taxation, to be
 18 ascertained by the last assessment for state and county
 19 taxes.

20 (2) The issuing of bonds for the purpose of funding or
 21 refunding outstanding warrants or bonds is not the incurring
 22 of a new or additional indebtedness but is merely the
 23 changing of the evidence of outstanding indebtedness.

24 (3) The limitation in subsection (1) does not apply to
 25 bonds issued for the repayment of tax protests lost by the

1 city or town."

2 **Section 29.** Section 7-7-4202, MCA, is amended to read:

3 "7-7-4202. Special provisions relating to water and
 4 sewer systems. (1) Notwithstanding the provisions of
 5 7-7-4201, for the purpose of constructing a sewer system,
 6 procuring a water supply, or constructing or acquiring a
 7 water system for a city or town which owns and controls the
 8 water supply and water system and devotes the revenues
 9 therefrom to the payment of the debt, a city or town may
 10 incur an additional indebtedness by borrowing money or
 11 issuing bonds.

12 (2) The additional total indebtedness that may be
 13 incurred by borrowing money or issuing bonds for the
 14 construction of a sewer system, for the procurement of a
 15 water supply, or for both such purposes, including all
 16 indebtedness theretofore contracted which is unpaid or
 17 outstanding, may not in the aggregate exceed 55% over and
 18 above the ~~20%~~ 30.5% 29.8%, referred to in 7-7-4201, of the
 19 taxable value of the property therein subject to taxation as
 20 ascertained by the last assessment for state and county
 21 taxes."

22 **Section 30.** Section 7-13-4103, MCA, is amended to
 23 read:

24 "7-13-4103. Limitation on indebtedness for acquisition
 25 of natural gas system. The total amount of indebtedness

1 authorized to be contracted in any form, including the
 2 then-existing indebtedness, must not at any time exceed ~~17%~~
 3 ~~18.5%~~ 18.1% of the total taxable value of the property of
 4 the city or town subject to taxation as ascertained by the
 5 last assessment for state and county taxes."

6 **Section 31.** Section 7-14-236, MCA, is amended to read:

7 "7-14-236. Limitation on bonded indebtedness. The
 8 amount of bonds issued to provide funds for the district and
 9 outstanding at any time shall not exceed ~~20%~~ ~~30.5%~~ 29.8% of
 10 the taxable value of taxable property therein as ascertained
 11 by the last assessment for state and county taxes previous
 12 to the issuance of such bonds."

13 **Section 32.** Section 7-14-2524, MCA, is amended to
 14 read:

15 "7-14-2524. Limitation on amount of bonds issued --
 16 excess void. (1) Except as otherwise provided hereafter and
 17 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
 18 with all outstanding bonds and warrants except county high
 19 school bonds and emergency bonds, will exceed ~~11.25%~~ ~~12.25%~~
 20 12% of the total of the taxable value of the property
 21 therein, plus the amount of interim production and new
 22 production taxes levied divided by the appropriate tax rates
 23 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 24 60%, plus the amount of value represented by new production
 25 exempted from tax as provided in 15-23-612. The taxable

1 property and the amount of interim production and new
 2 production taxes levied shall be ascertained by the last
 3 assessment for state and county taxes prior to the issuance
 4 of such bonds.

5 (2) A county may issue bonds which, with all
 6 outstanding bonds and warrants except county high school
 7 bonds, will exceed ~~11.25%~~ ~~12.25%~~ 12% but will not exceed
 8 ~~22.5%~~ ~~24.5%~~ 24% of the total of the taxable value of such
 9 property, plus the amount of interim production and new
 10 production taxes levied divided by the appropriate tax rates
 11 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 12 60%, plus the amount of value represented by new production
 13 exempted from tax as provided in 15-23-612, when necessary
 14 for the purpose of replacing, rebuilding, or repairing
 15 county buildings, bridges, or highways which have been
 16 destroyed or damaged by an act of God, disaster,
 17 catastrophe, or accident.

18 (3) The value of the bonds issued and all other
 19 outstanding indebtedness of the county, except county high
 20 school bonds, shall not exceed ~~22.5%~~ ~~24.5%~~ 24% of the total
 21 of the taxable value of the property within the county, plus
 22 the amount of interim production and new production taxes
 23 levied divided by the appropriate tax rates described in
 24 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 25 amount of value represented by new production exempted from

1 tax as provided in 15-23-612, as ascertained by the last
2 preceding general assessment."

3 **Section 33.** Section 7-14-2525, MCA, is amended to
4 read:

5 "7-14-2525. Refunding agreements and refunding bonds
6 authorized. (1) Whenever the total indebtedness of a county
7 exceeds ~~22.5%~~ 24.5% 24% of the total of the taxable value of
8 the property therein, plus the amount of interim production
9 and new production taxes levied divided by the appropriate
10 tax rates described in 15-23-607(2)(a) or (2)(b) and
11 multiplied by 60%, plus the amount of value represented by
12 new production exempted from tax as provided in 15-23-612,
13 and the board determines that the county is unable to pay
14 such indebtedness in full, the board may:

15 (a) negotiate with the bondholders for an agreement
16 whereby the bondholders agree to accept less than the full
17 amount of the bonds and the accrued unpaid interest thereon
18 in satisfaction thereof;

19 (b) enter into such agreement;

20 (c) issue refunding bonds for the amount agreed upon.

21 (2) These bonds may be issued in more than one series,
22 and each series may be either amortization or serial bonds.

23 (3) The plan agreed upon between the board and the
24 bondholders shall be embodied in full in the resolution
25 providing for the issue of the bonds."

1 **Section 34.** Section 7-14-4402, MCA, is amended to
2 read:

3 "7-14-4402. Limit on indebtedness to provide bus
4 service. The total amount of indebtedness authorized under
5 7-14-4401(1) to be contracted in any form, including the
6 then-existing indebtedness, may not at any time exceed ~~28%~~
7 30.5% 29.8% of the total taxable value of the property of
8 the city or town subject to taxation as ascertained by the
9 last assessment for state and county taxes. No money may be
10 borrowed or bonds issued for the purposes specified in
11 7-14-4401(1) until the proposition has been submitted to the
12 vote of the taxpayers of the city or town and the majority
13 vote cast in its favor."

14 **Section 35.** Section 7-16-2327, MCA, is amended to
15 read:

16 "7-16-2327. Indebtedness for park purposes. (1)
17 Subject to the provisions of subsection (2), a county park
18 board, in addition to powers and duties now given under law,
19 shall have the power and duty to contract an indebtedness in
20 behalf of a county, upon the credit thereof, for the
21 purposes of 7-16-2321(1) and (2).

22 (2) (a) The total amount of indebtedness authorized to
23 be contracted in any form, including the then-existing
24 indebtedness, must not at any time exceed ~~13%~~ 14% 13.8%
25 of the total of the taxable value of the taxable property in

1 the county, plus the amount of interim production and new
2 production taxes levied divided by the appropriate tax rates
3 described in 15-23-607(2)(a) or (2)(b) and multiplied by
4 60%, plus the amount of value represented by new production
5 exempted from tax as provided in 15-23-612, ascertained by
6 the last assessment for state and county taxes previous to
7 the incurring of such indebtedness.

8 (b) No money may be borrowed on bonds issued for the
9 purchase of lands and improving same for any such purpose
10 until the proposition has been submitted to the vote of
11 those qualified under the provisions of the state
12 constitution to vote at such election in the county affected
13 thereby and a majority vote is cast in favor thereof."

14 **Section 36.** Section 7-16-4104, MCA, is amended to
15 read:

16 "7-16-4104. Authorization for municipal indebtedness
17 for various cultural, social, and recreational purposes. (1)
18 A city or town council or commission may contract an
19 indebtedness on behalf of the city or town, upon the credit
20 thereof, by borrowing money or issuing bonds:

21 (a) for the purpose of purchasing and improving lands
22 for public parks and grounds;

23 (b) for procuring by purchase, construction, or
24 otherwise swimming pools, athletic fields, skating rinks,
25 playgrounds, museums, a golf course, a site and building for

1 a civic center, a youth center, or combination thereof; and
2 (c) for furnishing and equipping the same.

3 (2) The total amount of indebtedness authorized to be
4 contracted in any form, including the then-existing
5 indebtedness, may not at any time exceed ~~±6.5%~~ ±8% 17.6% of
6 the taxable value of the taxable property of the city or
7 town as ascertained by the last assessment for state and
8 county taxes previous to the incurring of such indebtedness.
9 No money may be borrowed on bonds issued for the purchase of
10 lands and improving the same for any such purpose until the
11 proposition has been submitted to the vote of the qualified
12 electors of the city or town and a majority vote is cast in
13 favor thereof."

14 **Section 37.** Section 7-31-106, MCA, is amended to read:

15 "7-31-106. Authorization for county to issue bonds --
16 election required. (1) If the petition is presented to the
17 board of county commissioners, it shall be the duty of the
18 board, for the purpose of raising money to meet the payments
19 under the terms and conditions of said contract and other
20 necessary and proper expenses in and about the same and for
21 the approval or disapproval thereof:

22 (a) to ascertain, within 30 days after submission of
23 the petition, the existing indebtedness of the county in the
24 aggregate; and

25 (b) to submit, within 60 days after ascertaining the

1 same, to the electors of such county the proposition to
2 approve or disapprove the contract and the issuance of bonds
3 necessary to carry out the same.

4 (2) The amount of the bonds authorized by this section
5 may not exceed ~~22.5%~~ 24.5% ~~24%~~ of the taxable value of the
6 taxable property therein, inclusive of the existing
7 indebtedness thereof, to be ascertained by the last
8 assessment for state and county taxes previous to the
9 issuance of said bonds and incurring of said indebtedness."

10 **Section 38.** Section 7-31-107, MCA, is amended to read:

11 "7-31-107. Authorization for municipality to issue
12 bonds -- election required. (1) If said petition is
13 presented to the council of any incorporated city or town,
14 the council, for the purpose of raising money to meet the
15 payments under the terms and conditions of said contract and
16 other necessary and proper expenses in and about the same
17 and for the approval or disapproval thereof:

18 (a) shall ascertain, within 30 days after submission
19 of the petition, the aggregate indebtedness of such city or
20 town; and

21 (b) shall submit, within 60 days after ascertaining
22 the same, to the electors of such city or town the
23 proposition to approve or disapprove said contract and the
24 issuance of bonds necessary to carry out the same.

25 (2) The amount of the bonds authorized by this section

1 may not exceed ~~16.5%~~ 18% ~~17.6%~~ of the taxable value of the
2 taxable property therein, inclusive of the existing
3 indebtedness thereof, to be ascertained in the manner
4 provided in this part."

5 **Section 39.** Section 7-34-2131, MCA, is amended to
6 read:

7 "7-34-2131. Hospital district bonds authorized. (1) A
8 hospital district may borrow money by the issuance of its
9 bonds to provide funds for payment of part or all of the
10 cost of acquisition, furnishing, equipment, improvement,
11 extension, and betterment of hospital facilities and to
12 provide an adequate working capital for a new hospital.

13 (2) The amount of bonds issued for such purpose and
14 outstanding at any time may not exceed ~~22.5%~~ 24.5% ~~24%~~ of
15 the taxable value of the property therein as ascertained by
16 the last assessment for state and county taxes previous to
17 the issuance of such bonds.

18 (3) Such bonds shall be authorized, sold, and issued
19 and provisions made for their payment in the manner and
20 subject to the conditions and limitations prescribed for
21 bonds of school districts by Title 20, chapter 9, part 4.

22 (4) Nothing herein shall be construed to preclude the
23 provisions of Title 50, chapter 6, part 1, allowing the
24 state to apply for and accept federal funds."

25 **Section 40.** Section 15-1-101, MCA, is amended to read:

1 "15-1-101. Definitions. (1) Except as otherwise
2 specifically provided, when terms mentioned in this section
3 are used in connection with taxation, they are defined in
4 the following manner:

5 (a) The term "agricultural" refers to the raising of
6 livestock, poultry, bees, and other species of domestic
7 animals and wildlife in domestication or a captive
8 environment, and the raising of field crops, fruit, and
9 other animal and vegetable matter for food or fiber.

10 (b) The term "assessed value" means the value of
11 property as defined in 15-8-111.

12 (c) The term "average wholesale value" means the value
13 to a dealer prior to reconditioning and profit margin shown
14 in national appraisal guides and manuals or the valuation
15 schedules of the department of revenue.

16 (d) (i) The term "commercial", when used to describe
17 property, means any property used or owned by a business, a
18 trade, or a nonprofit corporation as defined in 35-2-102 or
19 used for the production of income, except that property
20 described in subsection (ii).

21 (ii) The following types of property are not
22 commercial:

- 23 (A) agricultural lands;
- 24 (B) timberlands;
- 25 (C) single-family residences and ancillary

1 improvements and improvements necessary to the function of a
2 bona fide farm, ranch, or stock operation;

3 (D) mobile homes used exclusively as a residence
4 except when held by a distributor or dealer of trailers or
5 mobile homes as his stock in trade;

6 (E) all property described in 15-6-135; and

7 (F) all property described in 15-6-136; ~~and~~

8 ~~(G) all property described in 15-6-146.~~

9 (e) The term "comparable property" means property that
10 has similar use, function, and utility; that is influenced
11 by the same set of economic trends and physical,
12 governmental, and social factors; and that has the potential
13 of a similar highest and best use.

14 (f) The term "credit" means solvent debts, secured or
15 unsecured, owing to a person.

16 (g) The term "improvements" includes all buildings,
17 structures, fences, and improvements situated upon, erected
18 upon, or affixed to land. When the department of revenue or
19 its agent determines that the permanency of location of a
20 mobile home or housetrailer has been established, the mobile
21 home or housetrailer is presumed to be an improvement to
22 real property. A mobile home or housetrailer may be
23 determined to be permanently located only when it is
24 attached to a foundation which cannot feasibly be relocated
25 and only when the wheels are removed.

1 (h) The term "leasehold improvements" means
 2 improvements to mobile homes and mobile homes located on
 3 land owned by another person. This property is assessed
 4 under the appropriate classification and the taxes are due
 5 and payable in two payments as provided in 15-24-202.
 6 Delinquent taxes on such leasehold improvements are a lien
 7 only on such leasehold improvements.

8 (i) The term "livestock" means cattle, sheep, swine,
 9 goats, horses, mules, and asses.

10 (j) The term "mobile home" means forms of housing
 11 known as "trailers", "housetrailer", or "trailer coaches"
 12 exceeding 8 feet in width or 45 feet in length, designed to
 13 be moved from one place to another by an independent power
 14 connected to them, or any "trailer", "housetrailer", or
 15 "trailer coach" up to 8 feet in width or 45 feet in length
 16 used as a principal residence.

17 (k) The term "personal property" includes everything
 18 that is the subject of ownership but that is not included
 19 within the meaning of the terms "real estate" and
 20 "improvements".

21 (l) The term "poultry" includes all chickens, turkeys,
 22 geese, ducks, and other birds raised in domestication to
 23 produce food or feathers.

24 (m) The term "property" includes moneys, credits,
 25 bonds, stocks, franchises, and all other matters and things,

1 real, personal, and mixed, capable of private ownership.
 2 This definition must not be construed to authorize the
 3 taxation of the stocks of any company or corporation when
 4 the property of such company or corporation represented by
 5 the stocks is within the state and has been taxed.

6 (n) The term "real estate" includes:

7 (i) the possession of, claim to, ownership of, or
 8 right to the possession of land;

9 (ii) all mines, minerals, and quarries in and under the
 10 land subject to the provisions of 15-23-501 and Title 15,
 11 chapter 23, part 8; all timber belonging to individuals or
 12 corporations growing or being on the lands of the United
 13 States; and all rights and privileges appertaining thereto.

14 (o) "Research and development firm" means an entity
 15 incorporated under the laws of this state or a foreign
 16 corporation authorized to do business in this state whose
 17 principal purpose is to engage in theoretical analysis,
 18 exploration, and experimentation and the extension of
 19 investigative findings and theories of a scientific and
 20 technical nature into practical application for experimental
 21 and demonstration purposes, including the experimental
 22 production and testing of models, devices, equipment,
 23 materials, and processes.

24 (p) The term "taxable value" means the percentage of
 25 market or assessed value as provided for in 15-6-131 through

1 15-6-149 Title 15, chapter 6, part 1.

2 (q) The term "weighted mean assessment ratio" means
3 the total of the assessed values divided by the total of the
4 selling prices of all area sales in the stratum.

5 (2) The phrase "municipal corporation" or
6 "municipality" or "taxing unit" shall be deemed to include a
7 county, city, incorporated town, township, school district,
8 irrigation district, drainage district, or any person,
9 persons, or organized body authorized by law to establish
10 tax levies for the purpose of raising public revenue.

11 (3) The term "state board" or "board" when used
12 without other qualification shall mean the state tax appeal
13 board."

14 **Section 41.** Section 15-6-137, MCA, is amended to read:

15 "15-6-137. Class seven property -- description --
16 taxable percentage. (1) Class seven property includes:

17 (a) all property used and owned by persons, firms,
18 corporations, or other organizations that are engaged in the
19 business of furnishing telephone communications exclusively
20 to rural areas or to rural areas and cities and towns of 800
21 persons or less;

22 (b) all property owned by cooperative rural electrical
23 and cooperative rural telephone associations that serve less
24 than 95% of the electricity consumers or telephone users
25 within the incorporated limits of a city or town;

1 (c) electric transformers and meters; electric light
2 and power substation machinery; natural gas measuring and
3 regulating station equipment, meters, and compressor station
4 machinery owned by noncentrally assessed public utilities;
5 and tools used in the repair and maintenance of this
6 property;

7 ~~(d) any tools or implements that are not included in~~
8 ~~another class or that are exempt under 15-6-201(1)(r), and~~
9 ~~machinery used to repair and maintain machinery not used for~~
10 ~~manufacturing and mining purposes.~~

11 (2) To qualify for this classification, the average
12 circuit miles for each station on the telephone
13 communication system described in subsection (1)(b) must be
14 more than 1 mile.

15 (3) Class seven property is taxed at 8% ~~4%~~ 8% of its
16 market value."

17 **Section 42.** Section 15-6-138, MCA, is amended to read:

18 "15-6-138. Class eight property -- description --
19 taxable percentage. (1) Class eight property includes:

20 (a) all agricultural implements and equipment;

21 (b) all mining machinery, fixtures, equipment, tools
22 that are not exempt under 15-6-201(1)(r), and supplies
23 except:

24 (i) those included in class five; and

25 (ii) coal and ore haulers;

1 (c) all manufacturing machinery, fixtures, equipment,
2 tools that are not exempt under 15-6-201(1)(r), and supplies
3 except those included in class five;

4 (d) all trailers, including those prorated under
5 15-24-102, except those subject to taxation under
6 61-3-504(2);

7 (e) all goods and equipment intended for rent or
8 lease, except goods and equipment specifically included and
9 taxed in another class;

10 (f) buses and trucks having a rated capacity of more
11 than 1 ton, including those prorated under 15-24-102; and

12 ~~(g) all other machinery except that specifically~~
13 ~~included in another class;~~

14 (g) truck toppers weighing more than 300 pounds;

15 (h) furniture, fixtures, and equipment, except that
16 specifically included in another class, used in commercial
17 establishments as defined in this section;

18 (i) x-ray and medical and dental equipment;

19 (j) citizens' band radios and mobile telephones;

20 (k) radio and television broadcasting and transmitting
21 equipment;

22 (l) cable television systems;

23 (m) coal and ore haulers;

24 (n) theater projectors and sound equipment; and

25 (o) all other property not included in any other class

1 in this part, except that property subject to a fee in lieu
2 of a property tax.

3 (2) As used in this section, "coal and ore haulers"
4 means nonhighway vehicles that exceed 18,000 pounds per axle
5 and that are primarily designed and used to transport coal,
6 ore, or other earthen material in a mining or quarrying
7 environment.

8 (3) "Commercial establishment" includes any hotel;
9 motel; office; petroleum marketing station; or service,
10 wholesale, retail, or food-handling business.

11 ~~(2)(4)~~ Class eight property is taxed at 11% 4% 6% of
12 its market value."

13 **Section 43.** Section 15-10-402, MCA, is amended to
14 read:

15 "15-10-402. Property tax limited to 1986 levels. (1)
16 Except as provided in subsections (2) and (3), the amount of
17 taxes levied on property described in 15-6-133, 15-6-134,
18 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any
19 taxing jurisdiction, exceed the amount levied for taxable
20 year 1986.

21 (2) The limitation contained in subsection (1) does
22 not apply to levies for rural improvement districts, Title
23 7, chapter 12, part 21; special improvement districts, Title
24 7, chapter 12, part 41; or bonded indebtedness.

25 (3) New construction or improvements to or deletions

1 from property described in subsection (1) are subject to
2 taxation at 1986 levels.

3 (4) As used in this section, the "amount of taxes
4 levied" and the "amount levied" mean the actual dollar
5 amount of taxes imposed on an individual piece of property,
6 notwithstanding an increase or decrease in value due to
7 inflation, reappraisal, adjustments in the percentage
8 multiplier used to convert appraised value to taxable value,
9 changes in the number of mills levied, or increase or
10 decrease in the value of a mill."

11 **Section 44.** Section 15-24-1102, MCA, is amended to
12 read:

13 "15-24-1102. Federal property held under contract of
14 sale. When the property is held under a contract of sale or
15 other agreement whereby upon payment the legal title is or
16 may be acquired by the person, the real property shall be
17 assessed and taxed as defined in ~~15-6-131-through-15-6-149~~
18 Title 15, chapter 6, part 1, and 15-8-111 without deduction
19 on account of the whole or any part of the purchase price or
20 other sum due on the property remaining unpaid. The lien for
21 the tax may not attach to, impair, or be enforced against
22 any interest of the United States in the real property."

23 **Section 45.** Section 15-24-1103, MCA, is amended to
24 read:

25 "15-24-1103. Federal property held under lease. When

1 the property is held under lease, other interest, or estate
2 therein less than the fee, except under contract of sale,
3 the property shall be assessed and taxed as for the value,
4 as defined in ~~15-6-131-through-15-6-149~~ Title 15, chapter 6,
5 part 1, of such leasehold, interest, or estate in the
6 property and the lien for the tax shall attach to and be
7 enforced against only the leasehold, interest, or estate in
8 the property. When the United States authorizes the taxation
9 of the property for the full assessed value of the fee
10 thereof, the property shall be assessed for full assessed
11 value as defined in 15-8-111."

12 **Section 46.** Section 15-35-103, MCA, is amended to
13 read:

14 "15-35-103. Severance tax -- rates rate imposed. (1)
15 Subject to the provisions of 15-35-202 allowing a new coal
16 production incentive tax credit, a severance tax of 1% of
17 value is imposed on each ton of coal produced in the state.
18 ~~in accordance with the following schedule:~~

19 ~~(a)--After June 30, 1987, and before July 1, 1990:~~

20 Heating-quality	21 Surface--	22 Underground
23 (Btu-per-pound	24 Mining--	25 Mining---
26 ---of-coal):	27	28
29 Under-7,000	30 17% of value	31 3% of value
32 7,000 and over	33 25% of value	34 4% of value

35 ~~(b)--After June 30, 1990, and before July 1, 1991:~~

1 Heating-quality Surface-- Underground
 2 {Btu-per-pound Mining-- Mining---
 3 ---of-coal}: -
 4 Under-7,000 13%-of-value 3%-of-value
 5 7,000-and-over 20%-of-value 4%-of-value
 6 {c)--After-June-30,1991:
 7 Heating-quality Surface-- Underground
 8 {Btu-per-pound Mining-- Mining---
 9 ---of-coal}: -
 10 Under-7,000 10%-of-value 3%-of-value
 11 7,000-and-over 15%-of-value 4%-of-value
 12 (2) "Value" means the contract sales price.
 13 {3)--The-formula-which-yields-the-greater-amount-of-tax
 14 in-a-particular-case-shall-be-used-at-each--point--on--these
 15 schedules:
 16 {4}{3} A person is not liable for any severance tax
 17 upon 50,000 tons of the coal he produces in a calendar year,
 18 except that if he produces more than 50,000 tons of coal in
 19 a calendar year, he will be liable for severance tax upon
 20 all coal produced in excess of the first 20,000 tons.
 21 {5}{4} A new coal production incentive tax credit may
 22 be claimed on certain coal as provided in 15-35-202."
 23 **Section 47.** Section 19-11-503, MCA, is amended to
 24 read:
 25 "19-11-503. Special tax levy for fund required. (1)

1 The purpose of this section is to provide a means by which
 2 each disability and pension fund may be maintained at a
 3 level equal to 4% ~~4.3%~~ 4.26% of the taxable valuation of all
 4 taxable property within the limits of the city or town.
 5 (2) Whenever the fund contains less than 4% ~~4.3%~~ 4.26%
 6 of the taxable valuation of all taxable property within the
 7 limits of the city or town, the governing body of the city
 8 or town shall, at the time of the levy of the annual tax,
 9 levy a special tax as provided in 19-11-504. The special tax
 10 must be collected as other taxes are collected and, when so
 11 collected, must be paid into the disability and pension
 12 fund.
 13 (3) If a special tax for the disability and pension
 14 fund is levied by a third-class city or town using the
 15 all-purpose mill levy, the special tax levy must be made in
 16 addition to the all-purpose levy."
 17 **Section 48.** Section 19-11-504, MCA, is amended to
 18 read:
 19 "19-11-504. Amount of special tax levy. Whenever the
 20 fund contains an amount which is less than 4% ~~4.3%~~ 4.26% of
 21 the taxable valuation of all taxable property in the city or
 22 town, the city council shall levy an annual special tax of
 23 not less than 1 mill and not more than 4 mills on each
 24 dollar of taxable valuation of all taxable property within
 25 the city or town."

1 **Section 49.** Section 20-9-343, MCA, is amended to read:

2 "20-9-343. Definition of and revenue for state
3 equalization aid. (1) As used in this title, the term "state
4 equalization aid" means ~~those moneys~~ the money deposited in
5 the state special revenue fund as required in this section
6 plus any legislative appropriation of money from other
7 sources for distribution to the public schools for the
8 purpose of equalization of the foundation program.

9 (2) ~~The legislative appropriation legislature shall~~
10 biennially appropriate money for state equalization aid
11 ~~shall be made in a single sum for the biennium.~~ The
12 superintendent of public instruction ~~has authority to may~~
13 spend such the appropriation, together with the earmarked
14 revenues provided in subsection (3), as required for
15 foundation program purposes throughout the biennium.

16 (3) The following ~~shall~~ must be paid into the state
17 special revenue fund for state equalization aid to public
18 schools of the state:

19 (a) 31.8% of all money received from the collection of
20 income taxes under chapter 30 of Title 15;

21 (b) 25% of all money, except as provided in 15-31-702,
22 received from the collection of corporation license and
23 income taxes under chapter 31 of Title 15, as provided by
24 15-1-501;

25 (c) 100% of the money allocated to state equalization

1 from the collection of the severance tax on coal;

2 (d) 100% of the money received from the treasurer of
3 the United States as the state's shares of oil, gas, and
4 other mineral royalties under the federal Mineral Lands
5 Leasing Act, as amended;

6 (e) interest and income money described in 20-9-341
7 and 20-9-342;

8 (f) income from the education trust fund account; and

9 (g) in addition to these revenues, the surplus
10 revenues collected by the counties for foundation program
11 support according to 20-9-331 and 20-9-333; and

12 (h) all money collected ALLOCATED from the sales
13 PRIVILEGE tax on coal as provided in [section 7] (2)(D).

14 (4) Any surplus revenue in the state equalization aid
15 account in the second year of a biennium may be used to
16 reduce the appropriation required for the next succeeding
17 biennium."

18 **Section 50.** Section 20-9-406, MCA, is amended to read:

19 "20-9-406. Limitations on amount of bond issue. (1)
20 The maximum amount for which each school district may become
21 indebted by the issuance of bonds, including all
22 indebtedness represented by outstanding bonds of previous
23 issues and registered warrants, is ~~45% 49% 47.9%~~ of the
24 taxable value of the property subject to taxation as
25 ascertained by the last completed assessment for state,

1 county, and school taxes previous to the incurring of such
 2 indebtedness. The 45% maximum, however, may not pertain to
 3 indebtedness imposed by special improvement district
 4 obligations or assessments against the school district or to
 5 bonds issued for the repayment of tax protests lost by the
 6 district. All bonds issued in excess of such amount shall be
 7 null and void, except as provided in this section.

8 (2) When the total indebtedness of a school district
 9 has reached the 45% limitation prescribed in this section,
 10 the school district may pay all reasonable and necessary
 11 expenses of the school district on a cash basis in
 12 accordance with the financial administration provisions of
 13 this chapter.

14 (3) Whenever bonds are issued for the purpose of
 15 refunding bonds, any moneys to the credit of the debt
 16 service fund for the payment of the bonds to be refunded are
 17 applied towards the payment of such bonds and the refunding
 18 bond issue is decreased accordingly."

19 **Section 51.** Section 20-9-407, MCA, is amended to read:

20 "20-9-407. Industrial facility agreement for bond
 21 issue in excess of maximum. (1) In a school district within
 22 which a new major industrial facility which seeks to qualify
 23 for taxation as class five property under 15-6-135 is being
 24 constructed or is about to be constructed, the school
 25 district may require, as a precondition of the new major

1 industrial facility qualifying as class five property, that
 2 the owners of the proposed industrial facility enter into an
 3 agreement with the school district concerning the issuing of
 4 bonds in excess of the 45% limitation prescribed in
 5 20-9-406. Under such an agreement, the school district may,
 6 with the approval of the voters, issue bonds which exceed
 7 the limitation prescribed in this section by a maximum of
 8 45% ~~49%~~ 47.9% of the estimated taxable value of the property
 9 of the new major industrial facility subject to taxation
 10 when completed. The estimated taxable value of the property
 11 of the new major industrial facility subject to taxation
 12 shall be computed by the department of revenue when
 13 requested to do so by a resolution of the board of trustees
 14 of the school district. A copy of the department's statement
 15 of estimated taxable value shall be printed on each ballot
 16 used to vote on a bond issue proposed under this section.

17 (2) Pursuant to the agreement between the new major
 18 industrial facility and the school district and as a
 19 precondition to qualifying as class five property, the new
 20 major industrial facility and its owners shall pay, in
 21 addition to the taxes imposed by the school district on
 22 property owners generally, so much of the principal and
 23 interest on the bonds provided for under this section as
 24 represents payment on an indebtedness in excess of the
 25 limitation prescribed in 20-9-406. After the completion of

1 the new major industrial facility and when the indebtedness
 2 of the school district no longer exceeds the limitation
 3 prescribed in this section, the new major industrial
 4 facility shall be entitled, after all the current
 5 indebtedness of the school district has been paid, to a tax
 6 credit over a period of no more than 20 years. The credit
 7 shall as a total amount be equal to the amount which the
 8 facility paid the principal and interest of the school
 9 district's bonds in excess of its general liability as a
 10 taxpayer within the district.

11 (3) A major industrial facility is a facility subject
 12 to the taxing power of the school district, whose
 13 construction or operation will increase the population of
 14 the district, imposing a significant burden upon the
 15 resources of the district and requiring construction of new
 16 school facilities. A significant burden is an increase in
 17 ANB of at least 20% in a single year."

18 **Section 52.** Section 20-9-502, MCA, is amended to read:

19 "20-9-502. Purpose and authorization of a building
 20 reserve fund by an election. (1) The trustees of any
 21 district, with the approval of the qualified electors of the
 22 district, may establish a building reserve for the purpose
 23 of raising money for the future construction, equipping, or
 24 enlarging of school buildings or for the purpose of
 25 purchasing land needed for school purposes in the district.

1 In order to submit to the qualified electors of the district
 2 a building reserve proposition for the establishment of or
 3 addition to a building reserve, the trustees shall pass a
 4 resolution that specifies:

5 (a) the purpose or purposes for which the new or
 6 addition to the building reserve will be used;

7 (b) the duration of time over which the new or
 8 addition to the building reserve will be raised in annual,
 9 equal installments;

10 (c) the total amount of money that will be raised
 11 during the duration of time specified in subsection (1)(b);
 12 and

13 (d) any other requirements under 20-20-201 for the
 14 calling of an election.

15 (2) The total amount of building reserve when added to
 16 the outstanding indebtedness of the district shall not be
 17 more than ~~45%~~ ~~49%~~ 47.9% of the taxable value of the taxable
 18 property of the district. Such limitation shall be
 19 determined in the manner provided in 20-9-406. A building
 20 reserve tax authorization shall not be for more than 20
 21 years.

22 (3) The election shall be conducted in accordance with
 23 the school election laws of this title, and the electors
 24 qualified to vote in the election shall be qualified under
 25 the provisions of 20-20-301. The ballot for a building

1 reserve proposition shall be substantially in the following
 2 form:

3 OFFICIAL BALLOT

4 SCHOOL DISTRICT BUILDING RESERVE ELECTION

5 INSTRUCTIONS TO VOTERS: Make an X or similar mark in
 6 the vacant square before the words "BUILDING RESERVE--YES"
 7 if you wish to vote for the establishment of a building
 8 reserve (addition to the building reserve); if you are
 9 opposed to the establishment of a building reserve (addition
 10 to the building reserve) make an X or similar mark in the
 11 square before the words "BUILDING RESERVE--NO".

12 Shall the trustees be authorized to impose an
 13 additional levy each year for years to establish a
 14 building reserve (add to the building reserve) of this
 15 school district to raise a total amount of dollars
 16 (\$....), for the purpose(s) (here state the purpose or
 17 purposes for which the building reserve will be used)?

18 BUILDING RESERVE--YES.

19 BUILDING RESERVE--NO.

20 (4) The building reserve proposition shall be approved
 21 if a majority of those electors voting at the election
 22 approve the establishment of or addition to such building
 23 reserve. The annual budgeting and taxation authority of the
 24 trustees for a building reserve shall be computed by
 25 dividing the total authorized amount by the specified number

1 of years. The authority of the trustees to budget and
 2 impose the taxation for the annual amount to be raised for
 3 the building reserve shall lapse when, at a later time, a
 4 bond issue is approved by the qualified electors of the
 5 district for the same purpose or purposes for which the
 6 building reserve fund of the district was established.
 7 Whenever a subsequent bond issue is made for the same
 8 purpose or purposes of a building reserve, the money in the
 9 building reserve shall be used for such purpose or purposes
 10 before any money realized by the bond issue is used."

11 NEW SECTION. Section 53. Repealer. Sections 15-6-139,
 12 15-6-140, and 15-6-146, MCA, are repealed.

13 NEW SECTION. Section 54. Effective date. (1) Except
 14 as provided in subsection (2), [this act] is effective on
 15 passage and approval.

16 (2) If [this act] is passed and approved after July 1,
 17 1989, [this act] is effective retroactively, within the
 18 meaning of 1-2-109, to July 1, 1989.

19 NEW SECTION. Section 55. Applicability --
 20 contingency. (1) If [this act] is passed and approved after
 21 June 30, 1989, [sections 1 through ~~18~~ 18] apply
 22 retroactively, within the meaning of 1-2-109, to all coal
 23 sold and the receipts from such sales after June 30, 1989.
 24 ~~Receipts-from-coal~~ COAL sold prior to July 1, 1989, are IS
 25 not subject to the tax imposed in [section 2 1], regardless

1 of when the receipts-from-the--sale--are PRIVILEGE TAX IS
2 collected.

3 (2) If [this act] is passed and approved prior to July
4 1, 1989, [sections 1 through ~~10~~ 18] apply July 1, 1989, to
5 all receipts-from-the-sale-of-coal-occurring COAL SOLD after
6 June 30, 1989. Receipts-from-coal COAL sold prior to July 1,
7 1989, are IS not subject to the tax imposed in [section 2
8 1], regardless of when the receipts--from--the-sale-are
9 PRIVILEGE TAX IS collected.

10 (3) [Sections ~~11~~ 20 through ~~44~~ 53] apply to taxable
11 years beginning after December 31, 1989, and to fiscal years
12 beginning after June 30, 1990.

13 NEW SECTION. Section 56. Saving clause. [This act]
14 does not affect rights and duties that matured, penalties
15 that were incurred, or proceedings that were begun before
16 [the effective date of this act].

17 NEW SECTION. Section 57. Nonseverability. It is the
18 intent of the legislature that each part of [this act] is
19 essentially dependent upon every other part, and if one part
20 is held unconstitutional or invalid, all other parts are
21 invalid.

22 NEW SECTION. Section 58. Codification instruction.
23 [Sections 1 through ~~10~~ 18] are intended to be codified as an
24 integral part of Title 15, and the provisions of Title 15
25 apply to [sections 1 through ~~10~~ 18].

-End-